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LEGISLATIVE HISTORY

Public Law 615--77th Congress

Chapter 421--2d Session

H. R. 5204

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DIGEST OF PUBLIC LAW 615

AMENDMENT TO PACKERS AND STOCKYARDS ACT. Amends the Packers and Stockyards Act so as to authorize the Secretary to permit collections by States or livestock associations for inspection of brands on livestock originating in States where brands are used to identify animals for ownership; to set forth certain registration and tariff-filing requirements; to provide for determination of which agency will be authorized when more than one in a State request authorization; and to provide for suspension or revocation of authorizations and registrations.

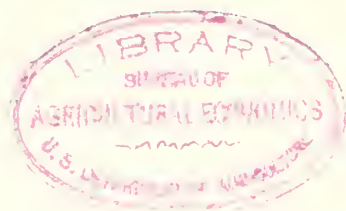
INDEX AND SUMMARY OF HISTORY OF H. R. 5204

June 27, 1941	H. R. 5204 was introduced by Rep. Kleberg and was referred to the House Committee on Agriculture. Print of the bill as introduced.
July 3, 1941	House Committee reported H. R. 5204 with amendments. House Report 901. Print of the bill as reported.
July 7, 1941	H. R. 5204 was discussed in the House and passed as reported.
July 10, 1941	H. R. 5204 was referred to the Senate Committee on Agriculture and Forestry. Print of the bill as referred.
July 28, 1941	Senate Committee reported H. R. 5204 without amendment. Senate Report 594. Print of the bill as reported.
August 11, 1941	H. R. 5204 was recommitted to the Senate Committee on Agriculture and Forestry. Print of the bill as recommitted.
August 21, 1941	Hearings: Senate, H. R. 5204.
May 28, 1942	Senate Committee reported H. R. 5204 without amendment. Senate Report 1425. Print of the bill as reported.
June 11, 1942	H. R. 5204 was discussed in the Senate and passed as reported.
June 19, 1942	Approved. Public Law 615.

June 27

77TH CONGRESS
1ST SESSION

H. R. 5204



IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1941

Mr. KLEBERG introduced the following bill; which was referred to the Committee on Agriculture

A BILL

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title III of the Packers and Stockyards Act, 1921, as
4 amended, is amended by adding at the end thereof the fol-
5 lowing new section:

6 “SEC. . (a) The Secretary may, upon written appli-
7 cation made to him, and if he deems it necessary, authorize
8 the charging and collection, at any stockyard subject to the
9 provisions of this Act, by any department or agency or any
10 State in which branding or marking or both branding and
11 marking livestock as a means of establishing ownership pre-

1 vails by custom or statute, or by a duly organized livestock
2 association of any such State, of a reasonable and nondis-
3 criminatory fee for the inspection of brands, marks, and other
4 identifying characteristics of livestock originating in or
5 shipped from such State, for the purpose of determining the
6 ownership of such livestock. No charge shall be made under
7 any such authorization until the authorized department,
8 agency, or association has registered as a market agency.
9 No more than one such authorization shall be issued with
10 respect to such inspection of livestock originating in or shipped
11 from any one State. If more than one such application is
12 filed with respect to such inspection of livestock originating
13 in or shipped from any one State, the Secretary shall issue
14 such authorization to the applicant deemed by him best
15 qualified to perform the proposed service, on the basis of
16 (1) experience, (2) financial responsibility, (3) extent
17 and efficiency of organization, (4) possession of necessary
18 records, and (5) any other factor relating to the ability of
19 the applicant to perform the proposed service. The Secre-
20 tary may receive and consider the recommendations of the
21 commissioner, secretary, or director of agriculture, or other
22 appropriate officer or agency of a State as to the qualifications
23 of any applicant in such State. The decision of the Secretary
24 as to the applicant best qualified shall be final.

25 “(b) The provisions of this title relating to the filing,

1 publication, approval, modification, and suspension of any
2 rate or charge for any stockyard service shall apply with
3 respect to charges authorized to be made under this section.

4 “(c) Charges authorized to be made under this section
5 shall be collected by the market agency or other person re-
6 ceiving and disbursing the funds received from the sale of
7 livestock with respect to the inspection of which such charge
8 is made, and paid by it to the department, agency, or asso-
9 ciation performing such service.

10 “(d) The Secretary may, if he deems it to be in the
11 public interest, suspend, and after hearing, revoke any
12 authorization and registration issued under the provisions
13 of this section or any similar authorization and registration
14 issued under any other provision of law. The order of the
15 Secretary suspending or revoking any such authorization and
16 registration shall not be subject to review.”

CONGRESS
1ST SESSION

H. R. 5204

A BILL

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

By Mr. KIEBERG

JUNE 27, 1941

Referred to the Committee on Agriculture

July 3



77TH CONGRESS }
1st Session }

HOUSE OF REPRESENTATIVES

REPORT
No. 901

AMEND TITLE III OF PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED

JULY 3, 1941.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed

Mr. KLEBERG, from the Committee on Agriculture, submitted the
following

REPORT

[To accompany H. R. 5204]

The Committee on Agriculture, to whom was referred the bill (H. R. 5204) authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended, having considered the same, report thereon with a recommendation that it do pass, with the following typographical amendments:

Page 1, line 6, strike out the expression "SEC." and insert in lieu thereof "SEC. 317".

Page 1, line 9, strike out the words "or any" and insert in lieu thereof "of any".

STATEMENT

In 1929 section 231 of title 7 of the Packers and Stockyards Act, as carried in the United States Code, was adopted as a rider to the appropriation bill for the Department of Agriculture. Since that time this same section has been readopted each 2 years as a rider to the Department of Agriculture appropriation bill. The purpose of the reported bill is to make the provisions of section 231, together with the regulations that have been adopted by the Department of Agriculture in the interpretation of that provision, a permanent part of the Packers and Stockyards Act, so that organizations doing the work called for under the rider may have a permanent foundation to rest their work on. The service provided for under this act is the same inspection of livestock for the purpose of determining ownership from the brands carried by livestock passing through public stockyards, and thus detecting and preventing theft of livestock.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman:

[Public, No. 51, 67th Cong.]

* * * * *

TITLE III—STOCKYARDS

SEC. 316. For the purposes of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title.

SEC. 317. (a) *The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.*

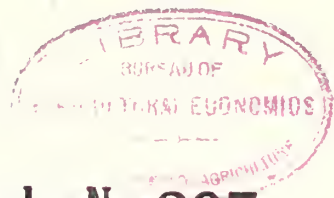
(b) *The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.*

(c) *Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.*

(d) *The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.*

* * * * *

P+S



Union Calendar No. 297

77TH CONGRESS
1ST SESSION

H. R. 5204

[Report No. 901]

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1941

Mr. KLEBERG introduced the following bill; which was referred to the Committee on Agriculture

JULY 3, 1941

Reported with amendments, committed to the Committee of the Whole House on the state of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title III of the Packers and Stockyards Act, 1921, as
4 amended, is amended by adding at the end thereof the fol-
5 lowing new section:

6 SEC. 317. (a) The Secretary may, upon written appli-
7 cation made to him, and if he deems it necessary, authorize
8 the charging and collection, at any stockyard subject to the
9 provisions of this Act, by any department or agency ~~or any~~
10 *of any State in which branding or marking or both branding*

1 and marking livestock as a means of establishing ownership
2 prevails by custom or statute, or by a duly organized livestock
3 association of any such State, of a reasonable and nondis-
4 criminatory fee for the inspection of brands, marks, and other
5 identifying characteristics of livestock originating in or
6 shipped from such State, for the purpose of determining the
7 ownership of such livestock. No charge shall be made under
8 any such authorization until the authorized department,
9 agency, or association has registered as a market agency.
10 No more than one such authorization shall be issued with
11 respect to such inspection of livestock originating in or shipped
12 from any one State. If more than one such application is
13 filed with respect to such inspection of livestock originating
14 in or shipped from any one State, the Secretary shall issue
15 such authorization to the applicant deemed by him best
16 qualified to perform the proposed service, on the basis of
17 (1) experience, (2) financial responsibility, (3) extent
18 and efficiency of organization, (4) possession of necessary
19 records, and (5) any other factor relating to the ability of
20 the applicant to perform the proposed service. The Secre-
21 tary may receive and consider the recommendations of the
22 commissioner, secretary, or director of agriculture, or other
23 appropriate officer or agency of a State as to the qualifications
24 of any applicant in such State. The decision of the Secretary
25 as to the applicant best qualified shall be final.

1 “(b) The provisions of this title relating to the filing,
2 publication, approval, modification, and suspension of any
3 rate or charge for any stockyard service shall apply with
4 respect to charges authorized to be made under this section.

5 “(c) Charges authorized to be made under this section
6 shall be collected by the market agency or other person re-
7 ceiving and disbursing the funds received from the sale of
8 livestock with respect to the inspection of which such charge
9 is made, and paid by it to the department, agency, or asso-
10 ciation performing such service.

11 “(d) The Secretary may, if he deems it to be in the
12 public interest, suspend, and after hearing, revoke any
13 authorization and registration issued under the provisions
14 of this section or any similar authorization and registration
15 issued under any other provision of law. The order of the
16 Secretary suspending or revoking any such authorization and
17 registration shall not be subject to review.”

77TH CONGRESS
1ST Session

H. R. 5204

[Report No. 901]

A BILL

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

By Mr. KLEBERG

JUNE 27, 1941

Referred to the Committee on Agriculture

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with respect to the Naval Academy in that about 150 alternates who had qualified were admitted, even though their principals had qualified, and they were not debited against the allotment which each Member has at the academy. Is that right?

Mr. THOMASON. The purpose to be accomplished is exactly the same, but the procedure is a little different.

Mr. WOLCOTT. That is as I understand it.

Mr. THOMASON. No Member of the House or of the Senate loses any of the rights he now has.

Mr. BEITER. Mr. Speaker, further reserving the right to object, is this the bill that authorizes the Secretary of War to make the appointment to the Military Academy if the Member of Congress fails to make the appointment?

Mr. THOMASON. No; it does this: There are now approximately 180 vacancies at West Point under the quota, and this provides that the academic board of the Military Academy may select from qualified alternates a number sufficient to fill the vacancies, but without any prejudice whatever to the rights of any Senator or Congressman to go ahead with his regular appointments.

Mr. BEITER. The qualified alternates are the qualified alternates named by the Members?

Mr. THOMASON. That is right.

Mr. BEITER. Suppose the alternates do not qualify, what happens then?

Mr. THOMASON. The right of the Member of Congress has not been affected. If there are sufficient qualified alternates over the country, the academic board at the Military Academy will go ahead and recommend to the Secretary of War and the places will be filled, giving fair and just distribution among the States.

Mr. BEITER. As a concrete example, suppose that my principal and all of my alternates should fail, would I then receive another appointment?

Mr. THOMASON. The gentleman's rights would not be affected in the slightest. Your appointment would ride over to the next year.

Mr. BEAM. Mr. Speaker, will the gentleman yield?

Mr. THOMASON. Yes.

Mr. BEAM. What relationship to the geographical sections will be given in this selection?

Mr. THOMASON. The bill provides that the War Department would in the exercise of its discretion try to make just distribution among the States, and they so testified before the committee, and the committee thinks the War Department would make equitable distribution.

Mr. BEAM. And in relation to a Congressman having a principal and two alternates?

Mr. THOMASON. In that connection I will say that under this bill each Congressman will have three alternates instead of two, as at present.

Mr. BEAM. Suppose he has, in the event the principal fails to qualify an alternate failing to report, does the Secretary make another selection?

Mr. THOMASON. Oh, no; he does not. He does not make it from the gentleman's

district or out of your quota, but if some of the gentleman's colleagues from the State of Illinois have qualified alternates, the Secretary of War, acting on the recommendation of the academic board, can fill existing vacancies. It does not affect the gentleman's right in the slightest. In fact, he might be lucky and thus enable one more boy from his district to enter the academy, provided he has a qualified alternate.

Mr. CHAPMAN. Will that be charged up to the Congressman?

Mr. THOMASON. It will not be. If the gentleman will read the bill he will observe in lines 16 and 17, on page 2, that these appointments shall be in addition to all other appointments authorized by law and without prejudice thereto.

Mr. BEAM. Mr. Speaker, although I appreciate the contribution that the gentleman from Texas has made, under the circumstances I shall object to the bill.

The SPEAKER. Is there objection?

Mr. BEAM. Mr. Speaker, I object.

INSTRUCTION AT NAVAL ACADEMY OF CITIZENS FROM THE AMERICAN REPUBLICS

The Clerk called the bill (S. 207) to authorize the course of instruction at the United States Naval Academy to be given to not exceeding 20 persons at a time from the American republics, other than the United States.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized to permit, upon designation of the President of the United States, not exceeding 20 persons at a time from the American republics (other than the United States) to receive instruction at the United States Naval Academy at Annapolis, Md. Not more than 3 persons from any of such republics shall receive instruction under authority of this act at the same time. The persons receiving instruction under authority of this act shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and, subject to such exceptions as may be determined by the Secretary of the Navy, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as midshipmen at the Naval Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United States Navy by reason of their graduation from the Naval Academy.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

GRANTING CERTAIN RIGHTS TO CITY OF VANCOUVER, WASH.

The Clerk called the bill (H. R. 3933) to grant the city of Vancouver, Wash., road rights-of-way and a retrocession of jurisdiction thereover.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to grant to the city of Vancouver, Wash., easements for rights-of-way for street or public-highway purposes over such roads on the Vancouver Barracks Military Reservation, Wash., as the Secretary of War may designate, and subject to such conditions, restrictions, and reservations as the Secretary of War may impose for

the protection of the reservation, with the right of the city of Vancouver to surface, pave, illuminate, lay mains, conduits, and culverts, and to make other improvements necessary for public purposes on said rights-of-way: *Provided*, That the city of Vancouver shall perform at its own cost and expense such work as the Secretary of War may require for the protection of or to prevent interference with the use of any which may be affected by the use and maintenance of said rights-of-way by the city of Vancouver.

SEC. 2. There is hereby granted to the State of Washington a retrocession of jurisdiction over such rights-of-way as may be granted hereunder by the Secretary of War to the city of Vancouver, subject to all of the conditions, restrictions, and reservations as may be contained in the grant.

SEC. 3. Whenever the city of Vancouver shall cease to occupy and use the land and premises for highway purposes as authorized herein then the same and all jurisdiction thereover shall revert to the United States.

SEC. 4. The retrocession of jurisdiction granted shall not become effective until the State of Washington shall by legislative action accept such retrocession of jurisdiction.

With the following committee amendment:

Page 2, line 6, after the word "any", insert, "underground or other improvements on said reservation."

The committee amendment was agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

DESIGNATING BUILDING GUARDS AS UNITED STATES BUILDING POLICE

Mr. WOLCOTT. Mr. Speaker, I ask unanimous consent to return to Calendar 166, H. R. 1409, designating building guards employed in buildings under the jurisdiction of the Federal Works Agency as United States building police, and for other purposes.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk reported the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That the building guards providing service in any buildings in the District of Columbia, under the jurisdiction of the Federal Works Agency, shall hereafter be known as United States Building Police and shall have the same powers and shall perform the same kind of duties as the United States Park Police and the Metropolitan Police of the District of Columbia: *Provided*, That the jurisdiction and policing power of such United States Building Police shall be restricted to the public buildings, grounds, and other areas under the control of the Federal Works Agency.

The annual salaries of the United States Building Police, without reference to the Classification Act of March 4, 1923, as amended, shall be as follows:

Chief inspector: \$3,500 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$4,000 per annum has been attained.

Inspector: \$2,700 for the first year, with an increase of \$100 for each following year of

satisfactory service until a maximum of \$3,100 per annum has been attained.

Fire marshal: \$2,800 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$3,200 per annum has been attained.

Assistant fire marshal: \$2,300 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$2,700 per annum has been attained.

Investigators: \$2,300 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$2,700 per annum has been attained.

Captain: \$2,300 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$2,700 per annum has been attained.

Lieutenant: \$1,900 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$2,300 per annum has been attained.

Sergeant: \$1,700 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$2,100 per annum has been attained.

Private: \$1,500 for the first year, with an increase of \$100 for each following year of satisfactory service until a maximum of \$1,900 per annum has been attained.

No private shall be promoted to a higher grade unless he shall have served satisfactorily for a period of at least 1 year.

The members of the United States Building Police force shall be instructed in their duties through appropriate training courses and furnished with uniforms and such other equipment as may be necessary for the proper performance of their duties, including badges, arms, ammunition, masks, etc., and other articles of clothing shall be furnished at cost.

The Administrator of the Federal Works Agency is authorized and directed to make, modify, and enforce necessary rules and regulations for the proper government, conduct, discipline, and good name of the said United States Building Police force. No person shall be removed from the said United States Building Police force except upon written charges preferred against him in the name of the officer in charge of his duly authorized representative, to a trial board or boards which shall be established to hear such cases by the Administrator of the Federal Works Agency, said board or boards to be similar to the trial board provided by law for the Metropolitan Police of the District of Columbia.

Nothing herein contained shall operate to deprive the members of the United States Building Police force from any benefits arising from the act of May 22, 1920, as amended, entitled "An act for the retirement of employees in the classified civil service, and for other purposes."

That to provide for the increased salaries and compensation of the United States Building Police, so much as is necessary is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to supplement the amounts which have heretofore been appropriated for the payment of the salaries of the building guards in the buildings in the District of Columbia under the jurisdiction of the Federal Works Agency.

No portion of the appropriation authorized under this act shall be used to pay any compensation to any person who advocates, or who is a member of an organization that advocates, the overthrow of the Government of the United States through force or violence.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider laid on the table.

BRANDING AND MARKING, INSPECTION OF LIVESTOCK

Mr. KLEBERG. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 5204, authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended. The reason for this request is because this bill has not been on the calendar a sufficient length of time to warrant its consideration today.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the consideration of the bill?

Mr. MICHENER. Mr. Speaker, I reserve the right to object. As I understand the bill has the approval of the entire Agricultural Committee.

Mr. KLEBERG. Yes; and the Department of Agriculture requests it.

Mr. MICHENER. Will the gentleman please explain the bill?

Mr. KLEBERG. In 1929 the late Senator Kendrick introduced what is known as section 231 of title VII to the Packers and Stockyards Act, as a rider on the appropriation bill for the Department of Agriculture. While this section is numbered 231 in the United States act, it carries several numbers, since it has been reenacted every 2 years since 1929 in each of the appropriation bills. The bill generally provides that the Secretary of Agriculture be authorized whenever necessity exists to allow the collection at public stockyards of a reasonable fee for inspection of brands on animals passing through such stockyards in order to determine ownership of such animals.

The original rider has never been changed since its enactment in 1929. It has been reenacted in exactly the same language, and this rider is very indefinite and incomplete, since it sets up neither standards, rules, nor regulations for the guidance of the Secretary of Agriculture and is, in addition, as the gentleman will, of course, know from his wide experience as a Member of this House and his knowledge of the rules, as a rider to an appropriation bill, concurrently subject to a point of order each year it comes up. The Texas and Southwestern Cattle Raisers Association which, by the way, by membership is the largest cattle organization in the United States, has been unable to take advantage of the provisions of the bill, because if it did, carrying on inspections involving the shipment of cattle from the State of Texas to the many markets to which Texas cattle are shipped, it would be forced to increase its inspection force by great numbers and if, forsooth, the amendment might be knocked out by a point of order, the association would be left with an excess over and above, for instance, the \$93,000 which it spent last year for inspection service. Sixty-four thousand dollars of this was expended for the inspection and recovery of animals that did not belong to members of that association.

Several of the livestock organizations of the United States are working under

this provision. Nebraska, Wyoming, and Idaho organizations are all working under this, but being smaller organizations and conducting only stock yard investigations, they are in a position to avail themselves of it, despite the fact that it might be knocked out, whereas the Texas organization and some of the others, such as the Kansas City Livestock Association, are not in position to avail themselves of it.

This bill costs no money. It reenacts the present law. The only changes in the bill from the present law provide clarifying limitations and an authorization which requires that application must first be made to the Secretary by any association desiring to conduct inspection in the public yards, and this application must carry with it a filing of tariffs, which must be reasonable; and, in conclusion, the bill provides that any tariff or application may be annulled by the Secretary of Agriculture and that his order shall not be subject to review.

Does that explain the bill to the gentleman?

Mr. MICHENER. Yes. Without going into details, do I understand this to be the situation—that an appropriation bill down through the years since 1929 has carried the law in the form of a rider?

Mr. KLEBERG. That is right.

Mr. MICHENER. And that matter should originally have come before the Committee on Agriculture?

Mr. KLEBERG. That is correct.

Mr. MICHENER. Now the Committee on Agriculture has given consideration, as a legislative committee, to the advisability of this particular law?

Mr. KLEBERG. That is correct.

Mr. MICHENER. And is recommending it as permanent law?

Mr. KLEBERG. The gentleman is correct.

Mr. MICHENER. Mr. Speaker, I withdraw my reservation of objection.

Mr. LEWIS. Mr. Speaker, reserving the right to object, and I shall not object, what is the attitude of the stockmen of Colorado? I am not familiar with this particular piece of legislation.

Mr. KLEBERG. My understanding concerning that is this—in view of the fact that I have been forced to be absent, due to very important business with the select committee investigating airplane crashes, I have been forced to rely on the information which I have from an association of which the Colorado association is a member, the American National Livestock Association. That association is in accord with this piece of legislation throughout.

Mr. LEWIS. There is no objection in Colorado and elsewhere in the cattle-raising country of the West?

Mr. KLEBERG. There could be no possible objection from an honest cowman. There are a good many cow thieves still in the country, and each and every one of them would object to the provisions of this bill.

Mr. LEWIS. I think all of the cowmen in Colorado are of the honest variety.

Mr. KLEBERG. I am satisfied they are.

Mr. LEWIS. We in Colorado are glad to do anything to get rid of the cow thieves and cattle rustlers.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That title III of the Packers and Stockyards Act, 1921, as amended, is amended by adding at the end thereof the following new section:

"Sec. —. (a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this act, by any department or agency or any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

"(b) The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

"(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

"(d) The Secretary may, if he deems it to be in the public interest, suspend, and, after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review."

With the following committee amendment:

On page 1, line 9, strike out the words "or any" and insert in lieu thereof the words "of any."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEASE BY CERTAIN MISSION INDIANS OF CALIFORNIA

Mr. ROGERS of Oklahoma. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 2308) to ratify a lease entered into by certain Mission Indians of California, with a Senate amendment and concur in the Senate amendment.

The Clerk read the title of the bill. The Clerk read the Senate amendment, as follows:

Page 7, line 13, after "reservation", insert "and distributed in per capita payments as authorized by section 2 of the act of August 25, 1937, Public, No. 375, Seventy-fifth Congress."

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Senate amendment was agreed to. A motion to reconsider was laid on the table.

CONSTRUCTION OF COAST GUARD CUTTERS

Mr. BLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 4887) to authorize the construction of Coast Guard cutters necessary in the interest of national defense and for performance of Coast Guard duties, with Senate amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

SEC. 2. The President is authorized and empowered, in the interest of the national defense, through the Commandant of the Coast Guard, to purchase, charter, requisition the use of, or the possession of, for the use of the Coast Guard in the training of Coast Guard cadets and merchant marine personnel, any foreign vessel designed as a merchant marine training ship, which is lying idle in waters within the jurisdiction of the United States: *Provided*, That the provisions of the act of Congress approved June 6, 1941 (Public, No. 101, 77th Cong.), except the third and fourth provisos of section 1 thereof, applicable to foreign merchant vessels shall be applicable to any foreign vessel acquired under this section.

Line 9, strike out "2" and insert "3."

Amend the title so as to read: "An act to authorize the construction of Coast Guard cutters necessary in the interest of national defense and for performance of Coast Guard duties, and for other purposes."

The SPEAKER. Is there objection to the request of the gentleman from Virginia [Mr. BLAND]?

Mr. MICHENER. Mr. Speaker, reserving the right to object, is this a unanimous report from the conferees?

Mr. BLAND. This is not a conference report. The gentleman was misled by my conversation with him a few minutes ago. This is a bill that is pending at the desk with reference to the construction of Coast Guard cutters. No change was made in the bill as it passed the House, but there was added another section, which would authorize the purchase, charter, or requisition the use of training ships by the Coast Guard Academy.

The situation is this: That there is at Jacksonville, Fla., the Danish training

ship *Danmark* that was especially constructed for the purpose of training. When the Board of Visitors, among whose membership are included many members of the gentleman's own party, and some appointed from the House, considered this at their last meeting, it was the unanimous report of the Board of Visitors to the Coast Guard Academy that steps should be taken to acquire this particular ship for the purpose of the Coast Guard Academy.

The Treasury authorities have had the matter up with the Minister from Denmark. It seems that authority is needed to acquire this ship.

The Coast Guard officials tell me that the acquisition of a training vessel for the Coast Guard Academy is made all the more necessary by the fact that the Coast Guard cutters formerly utilized for cadet training cannot be diverted from their naval and other duties during the present emergency.

This is a sailing ship, a three-masted square-rigged auxiliary sailing ship, and it will suit the purpose of the Coast Guard Academy very well. It is needed.

I may say in addition that I took this safeguard or precaution of bringing up in a regular session of the Committee on the Merchant Marine and Fisheries the question whether I should move to concur in this amendment. I was authorized by the committee without objection from either side to move to concur in this amendment.

Mr. MICHENER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The Senate amendments were agreed to.

A motion to reconsider was laid on the table.

The title of the bill was amended so as to read: "An act to authorize the construction of Coast Guard cutters necessary in the interest of national defense and for performance of Coast Guard duties, and for other purposes."

COMPENSATION OF CERTAIN FORMER EMPLOYEES OF RAILWAY MAIL SERVICE

Mr. SWEENEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 3367) relating to compensation of former employees of the Railway Mail Service in certain positions and reinstated prior to August 14, 1937, for immediate consideration.

The SPEAKER. The Chair calls attention to the fact that this bill has never been reported by any committee. It was referred to the Committee on the Post Office and Post Roads.

Mr. SWEENEY. Mr. Speaker, I withdraw the request. I find upon further investigation that there is no report on the bill.

EXTENSION OF REMARKS

Mr. COLMER. Mr. Speaker, I ask unanimous consent to extend my own remarks in the *RECORD* by inserting therein a brief talk made by the Chairman of the

United States Maritime Commission, Rear Admiral Emory S. Land.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. RANKIN of Mississippi. Mr. Speaker, I ask unanimous consent to extend my remarks on the bill (H. R. 8545) for the relief of World War veterans.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MERRITT. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an address made by the former Postmaster General James A. Farley.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MOSER. Mr. Speaker, I ask unanimous consent to extend my own remarks in two particulars: First, to include an Independence Day address by the Attorney General of the United States; and, second, to include a very apropos article by Westbrook Pegler and a brief comment from the Washington Star on Independence Day.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. SPARKMAN. Mr. Speaker, I ask unanimous consent that my colleague the gentleman from Alabama [Mr. HOBBS] may extend his own remarks in the RECORD and include therein a poem by Mr. Horace C. Carlisle.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. BETTER. Mr. Speaker, I ask unanimous consent to extend my own remarks and include therein an article by Owen L. Scott appearing in the Sunday Star and containing an excellent analysis of the foreign situation as it affects the United States.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COFFEE of Washington. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on two subjects, in one extension to include a brief article by the president of the City National Bank of Fort Smith, Ark., and in the other to include a brief article by Irving Brant, of St. Louis.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. SAUTHOFF. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include a brief editorial.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. ROBSION of Kentucky. Mr. Speaker, I have been heretofore granted the right to speak today for 20 minutes under special order of the House. However, I do not have at hand certain information I desire, therefore I will not use the time. I ask unanimous consent that I may be granted the same time to address the House on Monday next after disposition of business on the Speaker's

table and at the conclusion of any special orders heretofore made.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky [Mr. ROBSION]?

There was no objection.

EXTENSION OF REMARKS

Mr. COCHRAN. Mr. Speaker, I ask unanimous consent to revise and extend the remarks I made today.

The SPEAKER. Is there objection to the request of the gentleman from Missouri [Mr. COCHRAN]?

There was no objection.

PRIORITIES IN TRANSPORTATION BY MERCHANT VESSELS IN THE INTEREST OF NATIONAL DEFENSE

Mr. BLAND. Mr. Speaker, I call up the conference report on the bill (H. R. 4700) to provide for priorities in transportation by merchant vessels in the interest of national defense, and for other purposes, and I ask unanimous consent that the statement be read in lieu of the conference report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Virginia [Mr. BLAND]?

There was no objection.

The Clerk read the statement of the managers on the part of the House.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4700) to provide for priorities in transportation by merchant vessels in the interests of national defense, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 3.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 4, 5, 6, 7, and 8, and agree to the same.

S. O. BLAND,
ROBERT RAMSPECK,
J. J. MANSFIELD,
RICHARD J. WELCH,
FRANCIS D. CULKIN,

Managers on the part of the House.

GEORGE L. RADCLIFFE,
CHARLES L. McNARY,

Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 4700) to provide for priorities in transportation by merchant vessels in the interests of national defense, and for other purposes, submit the following written statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Amendment No. 1: The first sentence of the first section of the House bill vested authority in the President to authorize the United States Maritime Commission to issue warrants under the bill during the emergency declared by the President on September 8, 1939, to exist but not after June 30, 1943.

The Senate amendment substitutes the date (May 27, 1941) of the President's proclamation of an unlimited national emergency

for the date (September 8, 1939) of the proclamation of limited national emergency. The House recedes.

Amendment No. 2: Section 2 of the House bill among other things authorized the Maritime Commission in the issuance of warrants under the legislation to include conditions with respect to the maximum rate of charter hire or equivalent.

The Senate amendment modifies this provision to prescribe the customary regulatory standard of "fair and reasonable" for guidance of the Commission in the determination and prescription in connection with the warrants of maximum charter hire and maximum freight rates. The House recedes.

Amendment No. 3: The second sentence of section 2 of the House bill prohibited the Commission from requiring, under the Act, the owner or charterer of a vessel to relinquish the manning, storing, and other activities in respect of his vessel to any other person or persons.

The Senate amendment added to this list of activities in respect of a vessel which the owner could not be required to relinquish, the activities of managing and operating the vessel, and inserted the phrase "whenever practicable in the judgment of the Commission" in qualification of these restrictions on the administration of the Act. The Senate recedes.

Amendment No. 4: The first sentence of section 3 of the House bill provided for certain priorities for warrant-holding vessels in respect of facilities for loading, discharging, lighterage or storage of cargoes, bunkering, and repair of vessels.

The Senate amendment expressly includes the towing of vessels. The House recedes.

Amendment No. 5: The last sentence of section 3 of the House bill sets forth the persons subject to section 3 in respect of granting priorities to vessels.

The Senate amendment expressly modifies the term "persons" to cover persons in the United States, including the Philippine Islands and the Canal Zone. The House recedes.

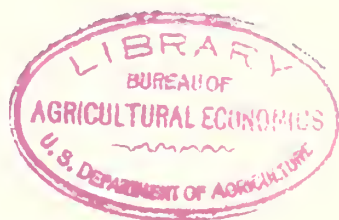
Amendment No. 6: Section 4 of the House bill declared that the policy of the Commission in issuing warrants under the act should be to give priority for importation of strategic and critical materials and to collaborate with defense agencies for procuring materials as requested by them. It further provided that vessels which on January 1, 1941, were engaged primarily in coastwise transportation of coal for national defense and domestic consumption be granted warrants only so long as they continue in the same service as of said date.

The Senate amendment modified section 4 to direct that the policy of the Commission be to make "fair and reasonable provision for priorities with respect to (1) the importation of substantial quantities of strategic and critical materials, (2) the transportation of substantial quantities of materials when such transportation is requested by any defense agency, and (3) the transportation in the foreign or domestic commerce of the United States of substantial quantities of materials deemed by the Commission to be essential to the defense of the United States."

The Senate amendment to section 4 of the House bill retained the sentence authorizing warrants for coastwise colliers only if they continue in the same service as on January 1, 1941, but added a clause or proviso at the end thereof to take care of the case where the owner of a collier, after January 1, 1941, and before June 15, 1941, entirely withdrew it from operation as a collier and became principally engaged in the transportation of defense materials as a permanent proposition and not as a temporary, partial, incidental, or seasonal operation, or otherwise with an intent to return to the former service as a collier. Under the proviso the Maritime Commission in the case of such a vessel is

77TH CONGRESS
1ST SESSION

H. R. 5204



IN THE SENATE OF THE UNITED STATES

JULY 10, 1941

Read twice and referred to the Committee on Agriculture and Forestry

AN ACT

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title III of the Packers and Stockyards Act, 1921, as
4 amended, is amended by adding at the end thereof the fol-
5 lowing new section:

6 SEC. 317. (a) The Secretary may, upon written appli-
7 cation made to him, and if he deems it necessary, authorize
8 the charging and collection, at any stockyard subject to the
9 provisions of this Act, by any department or agency of any
10 State in which branding or marking or both branding and
11 marking livestock as a means of establishing ownership pre-

1 vails by custom or statute, or by a duly organized livestock
2 association of any such State, of a reasonable and nondis-
3 criminatory fee for the inspection of brands, marks, and other
4 identifying characteristics of livestock originating in or
5 shipped from such State, for the purpose of determining the
6 ownership of such livestock. No charge shall be made under
7 any such authorization until the authorized department,
8 agency, or association has registered as a market agency.
9 No more than one such authorization shall be issued with
10 respect to such inspection of livestock originating in or shipped
11 from any one State. If more than one such application is
12 filed with respect to such inspection of livestock originating
13 in or shipped from any one State, the Secretary shall issue
14 such authorization to the applicant deemed by him best
15 qualified to perform the proposed service, on the basis of
16 (1) experience, (2) financial responsibility, (3) extent
17 and efficiency of organization, (4) possession of necessary
18 records, and (5) any other factor relating to the ability of
19 the applicant to perform the proposed service. The Secre-
20 tary may receive and consider the recommendations of the
21 commissioner, secretary, or director of agriculture, or other
22 appropriate officer or agency of a State as to the qualifications
23 of any applicant in such State. The decision of the Secretary
24 as to the applicant best qualified shall be final.

25 “(b) The provisions of this title relating to the filing,

1 publication, approval, modification, and suspension of any
2 rate or charge for any stockyard service shall apply with
3 respect to charges authorized to be made under this section.

4 “(c) Charges authorized to be made under this section
5 shall be collected by the market agency or other person re-
6 ceiving and disbursing the funds received from the sale of
7 livestock with respect to the inspection of which such charge
8 is made, and paid by it to the department, agency, or asso-
9 ciation performing such service.

10 “(d) The Secretary may, if he deems it to be in the
11 public interest, suspend, and after hearing, revoke any
12 authorization and registration issued under the provisions
13 of this section or any similar authorization and registration
14 issued under any other provision of law. The order of the
15 Secretary suspending or revoking any such authorization and
16 registration shall not be subject to review.”

Passed the House of Representatives July 7, 1941.

Attest:

SOUTH TRIMBLE,

Clerk.

AN ACT

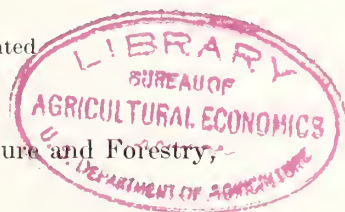
Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

JULY 10, 1941

Read twice and referred to the Committee on
Agriculture and Forestry

AUTHORIZING THE CHARGING OF FEES FOR BRAND
INSPECTION UNDER THE PACKERS AND STOCKYARDS
ACT, 1921, AS AMENDED

JULY 28, 1941.—Ordered to be printed



Mr. SMITH, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany H. R. 5204]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 5204) authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended, after having considered the same, report thereon favorably with the recommendation that the bill do pass without amendment.

A full explanation of the bill is incorporated in House Report No. 901, Seventy-seventh Congress, first session, which is as follows:

[H. Rept. No. 901, 77th Cong., 1st sess.]

The Committee on Agriculture, to whom was referred the bill (H. R. 5204) authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended, having considered the same, report thereon with a recommendation that it do pass, with the following typographical amendments:

Page 1, line 6, strike out the expression "SEC." and insert in lieu thereof "SEC. 317".

Page 1, line 9, strike out the words "or any" and insert in lieu thereof "of any".

STATEMENT

In 1929 section 231 of title 7 of the Packers and Stockyards Act, as carried in the United States Code, was adopted as a rider to the appropriation bill for the Department of Agriculture. Since that time this same section has been readopted each 2 years as a rider to the Department of Agriculture appropriation bill. The purpose of the reported bill is to make the provisions of section 231, together with the regulations that have been adopted by the Department of Agriculture in the interpretation of that provision, a permanent part of the Packers and Stockyards Act, so that organizations doing the work called for under the rider may have a permanent foundation to rest their work on. The service provided for under this act is the same inspection of livestock for the purpose of determining ownership from the brands carried by livestock passing through public stockyards, and thus detecting and preventing theft of livestock.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman:

[Public, No. 51, 67th Cong.]

* * * * *

TITLE III—STOCKYARDS

SEC. 316. For the purposes of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title.

SEC. 317. (a) *The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.*

(b) *The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.*

(c) *Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.*

(d) *The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.*

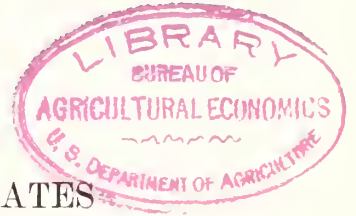
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Calendar No. 616

77TH CONGRESS
1ST SESSION

H. R. 5204

[Report No. 594]



IN THE SENATE OF THE UNITED STATES

JULY 10, 1941

Read twice and referred to the Committee on Agriculture and Forestry

JULY 28, 1941

Reported by Mr. SMITH, without amendment

AN ACT

Authorizing the charging of fees for brand inspection under the
Packers and Stockyards Act, 1921, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title III of the Packers and Stockyards Act, 1921, as
4 amended, is amended by adding at the end thereof the fol-
5 lowing new section:

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7 cation made to him, and if he deems it necessary, authorize
8 the charging and collection, at any stockyard subject to the
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10 State in which branding or marking or both branding and
11 marking livestock as a means of establishing ownership pre-

1 vails by custom or statute, or by a duly organized livestock
2 association of any such State, of a reasonable and nondis-
3 criminatory fee for the inspection of brands, marks, and other
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14 shall issue such authorization to the applicant deemed by him
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18 records, and (5) any other factor relating to the ability of
19 the applicant to perform the proposed service. The Secre-
20 tary may receive and consider the recommendations of the
21 commissioner, secretary, or director of agriculture, or other
22 appropriate officer or agency of a State as to the qualifications
23 of any applicant in such State. The decision of the Secretary
24 as to the applicant best qualified shall be final.

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1 publication, approval, modification, and suspension of any
2 rate or charge for any stockyard service shall apply with
3 respect to charges authorized to be made under this section.

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6 ceiving and disbursing the funds received from the sale of
7 livestock with respect to the inspection of which such charge
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11 public interest, suspend, and after hearing, revoke any
12 authorization and registration issued under the provisions
13 of this section or any similar authorization and registration
14 issued under any other provision of law. The order of the
15 Secretary suspending or revoking any such authorization and
16 registration shall not be subject to review.”

Passed the House of Representatives July 7, 1941.

Attest:

SOUTH TRIMBLE,

Clerk.

77TH CONGRESS
1ST SESSION

H. R. 5204

[Report No. 594]

AN ACT

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

JULY 10, 1941

Read twice and referred to the Committee on Agriculture and Forestry

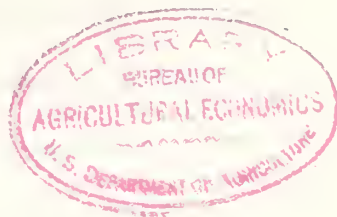
JULY 28, 1941

Reported without amendment

Aug. 11-

77TH CONGRESS
1ST SESSION

H. R. 5204



IN THE SENATE OF THE UNITED STATES

JULY 10, 1941

Read twice and referred to the Committee on Agriculture and Forestry

JULY 28, 1941

Reported by Mr. SMITH, without amendment

AUGUST 11, 1941

Recommitted to the Committee on Agriculture and Forestry

AN ACT

Authorizing the charging of fees for brand inspection under the
Packers and Stockyards Act, 1921, as amended.

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3 respect to charges authorized to be made under this section.

4 “(c) Charges authorized to be made under this section
5 shall be collected by the market agency or other person re-
6 ceiving and disbursing the funds received from the sale of
7 livestock with respect to the inspection of which such charge
8 is made, and paid by it to the department, agency, or asso-
9 ciation performing such service.

10 “(d) The Secretary may, if he deems it to be in the
11 public interest, suspend, and after hearing, revoke any
12 authorization and registration issued under the provisions
13 of this section or any similar authorization and registration
14 issued under any other provision of law. The order of the
15 Secretary suspending or revoking any such authorization and
16 registration shall not be subject to review.”

Passed the House of Representatives July 7, 1941.

Attest:

SOUTH TRIMBLE.

Clerk.

AN ACT

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

JULY 10, 1941

Read twice and referred to the Committee on Agriculture and Forestry

JULY 28, 1941

Reported without amendment

AUGUST 11, 1941

Recommitted to the Committee on Agriculture and Forestry

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AMENDING PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED

HEARING

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON AGRICULTURE AND FORESTRY
UNITED STATES SENATE
SEVENTY-SEVENTH CONGRESS
FIRST SESSION

ON

H. R. 5204

AN ACT AUTHORIZING THE CHARGING OF FEES FOR
BRAND INSPECTION UNDER THE PACKERS AND
STOCKYARDS ACT, 1921, AS AMENDED

AUGUST 21, 1941

Printed for the use of the Committee on Agriculture and Forestry



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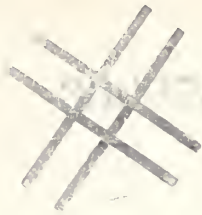
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AMENDING PACKERS AND STOCKYARDS ACT, 1921, AS AMENDED

THURSDAY, AUGUST 21, 1941

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON AGRICULTURE AND FORESTRY,
Washington, D. C.

The committee met, pursuant to call, at 10 a. m., in the Agriculture and Forestry Committee room, Senate Office Building, Senator Elmer Thomas (chairman) presiding.

Present: Senators Thomas of Oklahoma, Bunker, and Capper.

Also present: Senator Connally and Hon. Richard M. Kleberg, House of Representatives.

Senator THOMAS. The committee will be in order.

This is a subcommittee, appointed by Chairman Smith, to consider and make a report to the full committee on H. R. 5204, an act authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

At this point a copy of the bill, as the same passed the House, will be placed in the record.

(The bill under consideration is as follows:)

[H. R. 5204, 77th Cong., 1st sess.]

AN ACT Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title III of the Packers and Stockyards Act, 1921, as amended, is amended by adding at the end thereof the following new section:

SEC. 317. (a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the pro-

posed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

"(b) The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

"(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

"(d) The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review."

Passed the House of Representatives July 7, 1941.

Attest:

SOUTH TRIMBLE, *Clerk.*

Senator THOMAS. I am advised that in the House some reports were received from the Department of Agriculture on this measure; is that correct, Mr. Kleberg?

Mr. KLEBERG. That is correct, Senator.

Senator THOMAS. The secretary of this committee will then try to procure copies of those reports, if there is more than one, and insert those in the record at this particular point.

(The reports from the Department of Agriculture are to be found on p. 15.)

Senator THOMAS. We have present this morning a number of gentlemen who are interested in this particular bill; also Mr. Kleberg, of the House, who was the author in the House, as I understand it, of the original bill; and Senator Connally, of the Senate, who happens to represent the great State of Texas.

I do not know how you desire to proceed, Mr. Kleberg—

Senator CONNALLY (interposing). With the indulgence of Mr. Kleberg, I have got to attend a meeting of the Finance Committee, and I just want to make this brief appearance and say that I am very happy that the committee has appointed a subcommittee to hold hearings on this bill.

When the bill came over from the House, knowing that it had passed the House, and knowing Mr. Kleberg's authorship, I just assumed there was no objection to it from any source; but it later developed that Mr. McFadden and his associates were very much opposed to the bill.

Therefore, when the bill came up on the floor of the Senate, the leader, Senator Barkley, after finding that there was a controversy—I think Senator Langer objected or demanded an explanation of the bill—and when it developed that there was a controversy between two different associations, Senator Barkley suggested that the matter be recommitted, and that a hearing be held. Previously there had been no hearing before the committee. So that seemed to be agreeable to all concerned.

Of course, I am in rather a hot spot on it; I am not a member of this committee, but we have more cattle than any other State in the

Union, and we have a controversy here between two different cattle associations.

So all I can say is that I hope the committee will go into it and hear both sides fully, record their objections, and work the matter out to the best interests of all concerned.

I assume you will probably have someone here from the Department of Agriculture during the hearings.

I just want to express my appreciation for the activity of the committee and ask to be, at this juncture, excused; and I apologize to you all, and particularly to Congressman Kleberg, for leaving.

Senator THOMAS. We appreciate your appearance before the committee, Senator Connally, and before you leave let me make this statement:

When the bill first came before this committee it was represented to us that the existing law—that is, each agriculture appropriation bill—carries a provision that is good for each year, which authorizes the Secretary of Agriculture to grant to certain associations, or certain stockyards, or certain companies, the right to make a deduction, and to use this amount deducted to defray the expenses of certain other organizations. Inasmuch as the matter was being carried from year to year in the appropriations bill, as we understood it, those that considered this measure thought it would be all right to make it a permanent law.

At that time, so far as we knew, there was no objection to the provision as it existed in the present law, and there was no objection to the practice so far as I knew. For that reason, as I say, the committee authorized us to report it to the Senate, and that is how the bill came to be on the Senate Calendar.

Had we known at that time that there was a controversy, I am sure the committee would not have taken the action it did take.

So that is the status of the matter as it presents itself to the committee today. And I assure you, Senator Connally, that we will have a hearing and all parties who are interested will have a chance to make their position known. After that has been done the committee will consider the testimony for and against, and make some report to the full committee.

Senator CONNALLY. Thank you, Senator.

I think, Mr. Chairman, if you will allow me to make a suggestion, that while all of these gentlemen may not testify, it might be well to put their names in the record, and whom they represent.

Mr. KLEBERG. I was going to make that suggestion.

Senator THOMAS. I will state to you further, Senator Connally, that I find myself in the same position, that some of my constituents are for, and some against, the bill.

Mr. Kleberg, if you will, please indicate the names of the gentlemen, and their residences and whom they represent, who will appear before the committee.

Mr. KLEBERG. I present to the committee, first, Joe G. Montague, attorney for the Texas & Southwestern Cattleraisers Association; Mr. Jay Taylor, Amarillo, president of that association; Mr. Claude McCann, vice president, Texas & Southwestern Cattleraisers Association; Mr. Henry Bell, secretary and manager of the Texas &

Southwestern Cattleraisers Association; and myself, as author of the bill in support of the bill.

Senator THOMAS. You represent what district in Texas?

The KLEBERG. The Fourteenth Congressional District, sir.

Senator THOMAS. For the record, state the nature of the people you represent, what business they are engaged in.

Mr. KLEBERG. The people in my district are engaged in a great number of business. Possibly my district has as much diverse activity as any district represented by anyone in Congress.

There is a great chemical industry there; the district produces great quantities of minerals and oil; there are three ports in my district; we produce large quantities of cotton; we produce probably as much winter vegetables as any district in the country—

Senator THOMAS (interposing). What I wanted the record to show was the relationship of your district to cattle.

Mr. KLEBERG. My personal interest, as an individual, before I came to Congress, was that of a cowman, having had to do with the assistant management of the King Ranch, with headquarters at Kingsville, Tex. I was president of the Texas & Southwestern Cattleraisers Association for three consecutive times. I have been a member of the board of directors and the executive committee of the Cattleraisers Association since 1912.

Senator THOMAS. I just wanted the record to show that your district is a real cattle-raising district.

Mr. KLEBERG. It is that.

Senator THOMAS. So you have two interests in this bill?

Mr. KLEBERG. That is correct.

Senator THOMAS. First to represent others; and then to represent yourself?

Mr. KLEBERG. That is correct, sir. And in addition to that for a number of years, 5 years, I was a member of the special council of the American National Livestock Association.

Senator THOMAS. At this point, before we proceed with the testimony, will one of you gentlemen identify the opposition?

Mr. KLEBERG. You have here two in opposition to the bill, and I think that those gentlemen should record their presence at this hearing.

Mr. McFADDEN. W. P. H. McFadden, Jr., president of the Coastal Cattle Association.

Senator THOMAS. Where is your place of business?

Mr. McFADDEN. Beaumont, Tex.

Senator THOMAS. What is the nature of your organization?

Mr. McFADDEN. It is an organization formed in Texas under the Texas Cooperative Marketing Association, and it has about 800 members.

Senator THOMAS. All located in Texas?

Mr. McFADDEN. Yes, sir; all located in Texas. We represent east Texas and south Texas and along the coast. That is the district that we work in.

Mr. COOPER. My name is Ralph Cooper, of Beaumont, Tex., publisher of the magazine for the association.

Senator THOMAS. Where is the magazine published?

Mr. COOPER. At Beaumont; it is called the Coastal Cattleman.

Senator THOMAS. Now we will proceed and let the proponents of the bill be heard first, and then you gentlemen may have all the time you want, when the time comes to be heard.

Mr. KLEBERG. I would like to make a very short statement at the outset, Mr. Chairman, with reference to the bill.

Senator THOMAS. Proceed.

STATEMENT OF HON. RICHARD M. KLEBERG, TEXAS, MEMBER OF CONGRESS, FOURTEENTH CONGRESSIONAL DISTRICT

Mr. KLEBERG. At the outset, recalling your statement as to the manner in which the bill reached the floor of the Senate in the first instance, you referred to the recurring amendments to the packing and stockyards appropriations, agriculture appropriations, which brought this bill into the form which it now occupies in the present law.

The present law is, by most authorities, deemed to be a temporary law. As such, it provides for application to the Secretary of Agriculture by various associations over the country desiring to come in under the provisions of the present law authorizing them to collect certain fees for inspection work done on the various markets.

The law, as written, of course only affects those cattle which carry identification marks which are authorized by State law and recorded as brands or marks. The temporary nature of the bill has precluded any large and extended operations under the provisions as they now exist, because it is perfectly patent that for organizations to make application to perform inspection work and thereafter employ a number of inspectors, locating them at yards, and then to have the very definite possibility of the act not being reenacted, inasmuch as under the present statute it expires along with the act to which it is appended, has prevented a great number of organizations from availing themselves of the privileges of the act.

Now the opposition to the bill is based primarily on the fact that the Department of Agriculture is authorized, under this bill, to select from the various States an organization which, after making application and the filing of tariffs and the establishment that the tariffs charged are reasonable, will be authorized by the Department of Agriculture to make collection of a reasonable fee on the yard for the inspection service—just one organization.

The opposition opposes the idea that only one organization should be authorized to do it.

As a matter of fact the bill comes back to this committee in a rather peculiar guise. The authority, which is to select and name the organization in each State which is to do this work, is the Department of Agriculture, the Secretary of Agriculture. If the bill were enacted, applications would be made, tariffs filed, and the Department would indicate the association or organization which would do the work.

Now, it is perfectly manifest that to provide a rather large number, or even two organizations or associations, to do the work within a given State, would bring about a condition which would make the inspection service less effective. One group would be expecting another group to perform certain services, and occasions would arise

where possibly both groups failed, both associations failed, to make the grade in their inspection.

I have gone into the matter very thoroughly with the Department. The purpose of the bill is to defray, in the first instance, the rather large costs of maintaining an effective inspection force. There is nothing in the bill that would inhibit any organization within any State from making application to the Department of Agriculture, and upon showing their qualifications, in competition with all others, the Secretary of Agriculture would be called upon to designate the organization which would be authorized to collect fees on the yards and markets.

Now that, in short, is the general picture.

The Texas & Southwestern Cattleraisers Association has for some time been interested in the passage of legislation of this kind. It was organized in 1877, in Young County, Tex., with the major purpose in view of breaking up cattle stealing and bringing about, through careful inspection work, the recovery of cattle which had been stolen before they had been disposed of and the proceeds taken by the thieves.

They have been engaged in inspection service through all of the years; they have maintained, through all of these years, a more, and sometimes less, efficient inspection service, depending upon the revenue which they raised through their membership. Later on there will be developed in the testimony the cost to the cattlemen of Texas for conducting this work.

But it is my candid opinion that inasmuch as this bill does not provide anything more than the present law now provides, save only that it makes the law permanent and thereby affords a guaranty to organizations who make application that their inspection service will be taken care of, at least in part, by the fees to be collected on the yards, that it is a wise and good measure.

Now, the question of disputes between associations is a matter which is long existent. Local differences have brought about a situation where, through the years, there have been a number of organizations created, some of them working harmoniously and others not so harmoniously, with each other. As a matter of fact I think this committee, and Congress generally, have nothing whatsoever to do with disputes between organizations within States or within congressional districts in States.

I take no sides in the matter, but personally I am convinced that legislation of this sort will, if enacted, be highly efficacious in lowering cattle thefts generally, and will result in the recovery of a great many head of cattle which today go through the markets and are disposed of without being recovered to the owners, and the proceeds go to those who are not entitled to the proceeds, because it is manifestly impossible for an organization within one State, considering the large number of cattlemen who do not belong to the organizations, to maintain an inspection service at the expense of the members of any one given association which can cover the markets where Texas cattle are sold, in an efficient manner.

Now, that generally, is the picture from my standpoint.

At this time I would like to present the President of the Texas & Southwestern Cattleraisers Association, who is right up to the minute on the picture, so that you may get his views and the views of his association. Mr. Taylor.

STATEMENT OF JAY TAYLOR, PRESIDENT, TEXAS AND SOUTHWESTERN CATTLE RAISERS ASSOCIATION

Mr. TAYLOR. Senator Thomas and Senator Bunker, I will try to be brief.

I have been president of the Texas & Southwestern Cattleraisers Association about a year and a half.

This bill, as Congressman Kleberg has told you, has been discussed among cattle raisers ever since I have been going to meetings, and certainly I think it should be enacted and I think I bring to you almost 100 percent of the sentiment of the membership of our Texas association when I tell you that they are highly in favor of it.

We had a directors' meeting of 55 men, representing all of Texas and Oklahoma, and they unanimously approved this bill, and unanimously approved the idea of our going along with the set-up.

You see, we have inspectors in all these central markets, Kansas City, Omaha, Sioux City, Denver, Fort Worth, Houston, and all around, who already are performing this inspection service. This simply legalizes us and we get our money from the dues of our membership now.

We have about 3,800 active members in Texas who represent three and a half million cattle. Then we have about 13,000 what I would call inactive members, who don't come to conventions and don't vote very much, but who take our magazine and subscribe somewhat to the theories and purposes of the organization. We try to prevent theft and represent ourselves up here and in our State legislatures in the three States down there in matters that affect us.

Our inspection service costs up to about 60 or 65 thousand dollars a year to maintain. We have men all over Texas as well as on every market, so that every shipment of cattle, whether it belongs to a member or not, going up to the Oklahoma City market, say, is looked at by our Texas and Southwestern Cattleraisers' inspector, and if there is a brand there that corresponds to a member's brand in Oklahoma or Texas, and somebody else has that shipment of cattle, that inspector holds them up.

I think we have caught, in the history of the association, over 150,000 cattle, or something like that, and restored the money to the members of the association.

In addition to that, we do a great deal of detective work for non-members, and our men catch thieves not only for members but for people that don't belong to the association.

Senator BUNKER. Does the association pay for that service themselves?

Mr. TAYLOR. Oh, yes; we pay that, that is the \$60,000 a year I am telling you about.

Senator THOMAS. Where do you get that money?

Mr. TAYLOR. From our members who we assess 7½ cents a head.

Mr. KLEBERG. Might I at this moment interject this thought? If the association were to avail itself of the privileges of the present act, the expenditures of the association would be very much greater than \$60,000 a year because of the additional markets which we would like to serve but which we don't have the funds now with which to meet the service.

Mr. TAYLOR. Under this law we have got to spend every cent of the money for our inspection service.

Senator THOMAS. Don't you get some money from the stockyards?

Mr. TAYLOR. Not a dime, sir.

Senator THOMAS. Under the law aren't they authorized—

Mr. TAYLOR (interposing). Under the law that is what we are trying to do in this bill, be licensed as agents to inspect.

Mr. KLEBERG. Let me interject one more word to keep the record right in line.

I don't know whether you thoroughly understand the situation or not. The association, because of the temporary nature of this act, has been unwilling to increase its force because of the fear that the act might not be reenacted the subsequent year; and to add the large sum of money involved in the payment of salaries to inspectors, if the law were to go out of the picture, would be to bring about a bad condition. It was that reason which prompted the association to present this matter to the Department of Agriculture for study; and it was that reason back of the Department of Agriculture's not only sanction, if you will, but hearty approval of it, that brings the bill here before this committee.

Senator BUNKER. Now let me get this straight in my own mind. You are now spending \$60,000 or \$65,000 to inspect cattle in a given number of markets?

Mr. TAYLOR. That is right.

Senator BUNKER. What difference will this bill make?

Mr. TAYLOR. Well, the difference is simply that we will be enabled to inspect cattle on all markets; we are not now operating on all of the markets.

Senator BUNKER. What prevents you from operating on all markets?

Mr. TAYLOR. We simply don't have the money.

Senator BUNKER. And if this bill is enacted you will take enough out of the stockyard fees to pay for inspecting all of the brands?

Mr. TAYLOR. That is right, for inspecting on all markets.

Senator BUNKER. All markets?

Mr. TAYLOR. That is right.

Senator BUNKER. And your organization will do the inspection work?

Mr. TAYLOR. Yes, sir.

Senator THOMAS. What do you mean by "all markets?"

Mr. TAYLOR. I mean everywhere where Texas cattle are going to market.

Senator THOMAS. Just in Texas?

Mr. TAYLOR. Oh, no; we are now inspecting in Oklahoma City, but not in Tulsa; and we will go on all the markets with this thing and then it will cost us more. You see, under this bill we must keep a record, and it is going to take additional men to comply with the provisions of this bill. Where now, in Oklahoma City, we have two inspectors, we will have to add another man, probably, to keep the records, and furnish to the county attorneys and other people this extra information that we will get.

Senator BUNKER. The cattle owners will pay for this?

Mr. TAYLOR. The cattle owners will pay for it.

Senator BUNKER. They are paying for it now?

Mr. TAYLOR. Only 7½ cents a head. But just the members are paying, you see, and everybody that ships cattle there will be benefited from this thing because he will be protected, he will have inspectors that have been at this business all their lives, looking at his cattle.

Mr. KLEBERG. Right at this point I wanted to bring the thing clearly before you so you will understand it.

In the first place the inspection of cattle is a job which requires, first of all, a very wide knowledge of existing recorded brands and marks. That knowledge is held only by those men who have been in the business long enough to be able not only to remember but to quickly see not only changes in marks but to recognize the marks and to know the ownership of that mark, the individual who recorded that mark or brand.

Now it is perfectly manifest that cattle sold in the State of Nebraska, for instance, from Texas; or in the State of Oklahoma, from Texas; or in the State of Kansas or the State of Missouri, from Texas, would require a restudy of the marks by the agencies then serving in the State of Missouri and serving in the State of Nebraska and serving in the State of Oklahoma. They know the cattlemen of those regions and their brands, but they don't know the Texas brands, they don't know the brands that are recorded; they don't know the brands that are merely identification brands and are not recorded; and they don't know the various and multitudinous ways which exist by which those brands are changed.

Now that generally brings it up to a point where you can understand why cattle raisers in Texas are interested in having men who know not only the association's brands, but the brands that are recorded in the State of Texas. Now that is the picture there.

Senator BUNKER. May I pursue this just a moment, Mr. Chairman?

Senator THOMAS. Certainly.

Senator BUNKER. You are agreed on this point, that brand inspection is essential and necessary, I mean both sides are so agreed?

Mr. TAYLOR. Yes.

Senator BUNKER. The controversy then is, Who is going to do the inspection?

Mr. TAYLOR. I don't know what the controversy is, to tell you the truth. I have served as president of a local association, somewhat similar to the Coastal, which is known as the Panhandle, and they are in favor of this bill. In fact, four other local State associations have endorsed this bill.

Two or three weeks ago, at Colorado Springs, the National Livestock Association met and endorsed this bill, and representatives were there from every State in the west that are members.

I think I can say to you gentlemen that this is a fair bill, and that it should be enacted; and I promise you that the Texas & Southwestern Cattleraisers Association, a nonprofit organization, will continue to do its best to represent the cattle raisers in Texas and Oklahoma where its membership lies.

Unless you have some questions, that is all I have.

Senator THOMAS. We thank you for your statement.

Mr. KLEBERG. We will speed this up, because time is fleeting. I am going to suggest that Mr. McCann speak next.

Senator THOMAS. Give your name, address, and business to the reporter.

**STATEMENT OF CLAUDE McCANN, VICE PRESIDENT, TEXAS AND
SOUTHWESTERN CATTLERAISERS ASSOCIATION**

Mr. McCANN. My name is Claude McCann, Victoria, Tex.

Senator THOMAS. What is your business?

Mr. McCANN. Cattle.

I think most of the ground has been covered. It seems that the only bone of contention here is the fact that the bill would provide for only one agency in a State. I think most of the organizations are in favor of the bill except maybe for that phase of it.

Now, as to whether we will do the inspecting, or somebody else, I think would rest with the Department of Agriculture. As I see it, that has no place here for discussion.

Senator THOMAS. This bill is to be supervised by the Secretary of Agriculture; is that correct?

Mr. McCANN. Yes.

Senator THOMAS. And the Secretary will, within his discretion, exercise the powers granted under the bill, or he may refuse to. If he exercises his powers he will make some kind of an arrangement with some organization to do this work, and then he will authorize the collection of a certain fee on certain cattle?

Mr. McCANN. Yes, sir.

Senator THOMAS. And the fee will be turned over to the organization which he favors and negotiates with to do this work, is that correct?

Mr. McCANN. Yes, sir. Now, then, as I take it, you are not interested in any fight that we might have among ourselves; that is up to the Department of Agriculture.

As to this one point in here, why we want it to stay as written is this, that the Texas & Southwestern Cattleraisers Association maintains 32 inspectors in Texas and Oklahoma, 17 of which are market inspectors on the markets. The rest of them are ranch inspectors.

Now under this bill the expenses of those 17 will be carried and it will be necessary probably to bring in 15 more. But we are carrying that burden now. In other words, we are doing the work now and bearing it all ourselves, or we couldn't do it. But we will be helped to the extent that we are doing it with our own money.

Then we feel that what should happen is that the whole inspection system should be coordinated, the field inspection and the market inspection.

We had an instance the other day. There were some cattle caught on the market in San Antonio, but the preliminary work was all done in the country and they were tipped off to watch out for these cattle; so when they came, they were looking for them.

So we feel that the thing ought to be coordinated in the State of Texas and that is why, rather than one organization inspecting in Houston and another in San Antonio, and each not knowing what the other is doing, or anything about it, that the whole thing ought to be done together. That is why we want to have the bill written as one organization, which the bill provides for. I think that is the only bone of contention.

Then we can go before the Secretary of Agriculture and it is up to him to say who shall do it. But as far as this hearing is concerned, I take it that that is the only point that ought to be cleared up; and

we feel that the whole thing ought to be done working together with the men in the field who we will pay in the future just as we have in the past—that will be on our backs; and the inspectors on the market ought to be working under, you might say, one head.

Senator BUNKER. You say the inspectors in the field you will continue to pay for?

Mr. McCANN. Yes, sir.

Senator BUNKER. It is true that other cattle associations are paying now out of their own pockets for brand inspection at the markets?

Mr. McCANN. No; I think not.

Senator BUNKER. You are the only ones?

Mr. McCANN. I think we are the only ones in Texas who are inspecting on the markets, and we have maintained those inspectors for years.

Senator BUNKER. Well, if you are the only association that is inspecting brands on the markets, then there will be no change?

Mr. McCANN. Not at all, except we will have to put on more men. We will have to get out reports and do a lot of work that we don't have to do now, in order to justify this charge that we are going to make; and we have got to spend all of that money for inspection. There is no money to be made; and we couldn't afford to do it if we weren't already doing it.

Mr. KLEBERG. Might I call your attention to the fact that with the inspection service carried on at the markets, individuals who have cattle on the markets and among the cattle which they are selling are brands which do not belong to the seller but to members of the association, that they today pay nothing at all toward defraying the expenses of conducting this inspection; and in the main, as collections are made, the shippers of cattle to the market will expect to pay the inspection fee because they too will be benefited by discovery of other cattle which belong to them which will be found, under this inspection service, in other yards under other names.

Mr. McCANN. And right along that line, our inspectors now do everything that they are going to do in the future; they inspect all cattle that come in, but they just claim cattle for our members. In the future they would claim any strays that are in there, and they will have to make reports back to the owner of every shipment of cattle, through his commission man, that these cattle were duly inspected and passed or that there were certain strays in them.

Senator THOMAS. Thank you.

Mr. KLEBERG. I am going to call Mr. Bell, Senator—in order to speed things up—the secretary and manager, who has charge of all of the inspectors that are at present serving the yards at which the Cattle Raisers Association conducts an inspection service.

STATEMENT OF HENRY BELL, SECRETARY AND GENERAL MANAGER, TEXAS AND SOUTHWESTERN CATTLE RAISERS ASSOCIATION

Mr. BELL. Mr. Chairman, I have a prepared statement here which I would be glad to read or just file.

Senator THOMAS. I think you had better file the statement and then state, for the benefit of Senator Bunker and myself, the substance of it, very briefly.

Mr. BELL. This bill hinges principally on inspection or identification of livestock. They are identified by brands, earmarks, fleshmarks, or other characteristics of the animal.

At the present time we have 32 inspectors. They are stationed at Houston, San Antonio, and Fort Worth, Tex.; Denver, Colo.; Wichita, Kans.; Oklahoma City, Okla.; St. Joe and Kansas City, Mo.; and National Stockyards, Illinois.

All cattle moving from Texas and the Southwest to the Texas and Oklahoma markets are inspected regardless of whether they are members' cattle or not. That record is filed.

All cattle moving from Texas, Oklahoma, and a good part of Kansas are inspected on the river markets such as Kansas City, St. Joe, and those markets. In other words, we have built a cordon of inspection around the natural movement of cattle from Texas and the Southwest.

Cattle stealing in Texas, Oklahoma, New Mexico, and practically all of the cattle-producing States has become a very alarming situation due to the advent of the truck and good roads and sales rings and new markets springing up and small interior packing plants that are continually being built.

It has gotten so bad that the local officers, such as the sheriff of the county, the ranger force, and the bureau of identification depend on the association's records to run down many of these criminals, because we keep a record of all cattle that come in there as to brands, earmarks; and if they are not branded or earmarked, we describe them as "one white-face cow" or a "Jersey yearling," and so on, and we keep the consignor's name, his address, and his truck or trailer number.

So that is a big help to the officers when they are looking for stolen cattle, to have our records and the man's name and even the truck number.

We have been performing this service for 58 years; we have had full-time, paid inspectors on the job for that length of time; and if this bill is passed, whatever agency the Department of Agriculture might authorize to do this work, as Mr. Taylor said, that money has got to be spent on that particular operation or brand inspection.

With the set-up that we have, we think it will be easier to revamp our inspection system and go right along with it.

Senator THOMAS. If agreeable, I would like to have your prepared statement inserted in the record at this point in conjunction with your oral statement.

We thank you for your presentation.

(The statement referred to is as follows:)

TEXAS & SOUTHWESTERN CATTLE RAISERS ASSOCIATION

February 15 and 16, 1877 to 1941

"The members of this association shall work together for the good and common interest of stock raisers and to do all within our power for the promotion of the stock interests" (minutes of the first organization meeting, 1877).

BRIEF HISTORY OF THE ORGANIZATION

Since the independence of Texas the raising and producing of livestock has been one of the largest industries in the Southwest. From 1877 this association has been an integral and indispensable part of the industry.

It was organized as The Stock Raisers Association of Northwestern Texas, at Graham, Tex., on February 15 and 16, 1877. Its first membership was composed principally of livestock producers in the north, northeastern, and northwestern sections of Texas. In 1893 its membership had grown to include livestock producers operating over the entire State, and its name in that year was changed to the Cattle Raisers Association of Texas. Its membership continued to grow until in 1921 it showed members from 15 different States and Mexico. In that year its name was changed to the Texas & Southwestern Cattle Raisers Association. It now has 3,886 members, representing the ownership of approximately three and a half million cattle. Of this membership, 3,377 reside and operate in the State of Texas, and the remaining members are scattered principally through the States of New Mexico, Oklahoma, and Kansas.

The business of the association is carried on by its board of directors, consisting of 60 members, and an executive committee, consisting of 6 members of the board of directors and the officers. The board of directors elects annually a president, 2 vice presidents, a secretary and general manager, a treasurer, and a general attorney. The association employs 32 inspectors and an office force of 10 persons. It maintains its principal place of business at Fort Worth, Tex.

PURPOSE OF THE ASSOCIATION

In the minutes of the first meeting of the association, held in 1877, appears the following:

"The members of this association shall work together for the good and common interest of the stock raisers * * * and to do all within our power for the promotion of the stock interests."

This cardinal principle has never changed. It will be noted that the purpose of the association is not limited to the members of the association only, but is for "the good and common interest" of all stock raisers and producers.

Through the years the association has contributed its share in the making of the Southwest. This organization did much to eliminate the "frontier" and to make life and property safe over an area large enough for an empire.

INSPECTION OF LIVESTOCK

Although this association participates in any activity which affects the livestock industry, much of its work has been aimed at the suppression of cattle theft, which at the beginning was, is now, and always will be a menace to the industry, and which but for this association and its battalion of inspectors at the markets, at strategic range points, and in the field would be much more active. During the first 6 years of the existence of the association its members relied for protection upon cattlemen in certain areas who were designated as "brand representatives." Some good was accomplished by this arrangement; but it became apparent that this method was inadequate and unsatisfactory, and in 1883 the association employed full-time, paid inspectors, who were stationed at junctions and principal points on the northbound cattle trails on both sides of Red River.

When the cattle trails were closed and consignments to markets and other points were carried by rail, the inspection system was revamped. Permanent and full-time inspectors were stationed on all central markets to which any considerable number of cattle were shipped from Texas and adjacent States. Inspectors of the association are now stationed at the following markets: Fort Worth, Houston, San Antonio, and El Paso, Tex.; Denver, Colo.; Wichita, Kans.; Oklahoma City, Okla.; St. Joseph and Kansas City, Mo.; and National Stock Yards, Illinois.

In addition to the inspectors at the markets, the association also has inspectors, known as field inspectors, stationed at what is termed "range centers"; that is, at towns situated in centers of heavy cattle density and served by railroad lines and highways giving easy access to the surrounding country. Although stationed at range centers, they have no definite territory to cover and may be and are sent to all points of the Southwest as occasions arise.

This full-time inspection system dates back 58 years without a break, and the association at the present time employs 32 market and field inspectors.

The inspectors stationed at the market centers inspect and make a record of all cattle shipped to those centers. A record is kept by the inspectors of all brands on the cattle so inspected, and if the cattle are not branded, a record is

kept of the flesh marks and other identifying characteristics of the cattle. These inspectors also keep a record of the consignor's name, address, truck or trailer number, if shipment is by truck, and such other information as will enable a check-up on every consignment. This record is not only open for inspection to the members of the association, but is also available to all producers of livestock and particularly to the law-enforcement officers of the various counties and States.

Since the stationing of the inspectors at the market centers, payment of the proceeds from the sale of 159,067 head of cattle has been withheld until the ownership of the cattle could be established. Out of the proceeds from the sale of these animals, \$3,658,221.67 has been recovered and paid to the owners of the cattle which had either been stolen or shipped by mistake by other parties.

The principal duty of the field inspectors is to inspect shipments from their territory, especially if consigned to grazing and feeding areas of distant States, and to investigate losses of cattle. These inspectors hold special ranger commissions and are specially trained in the running down of cattle thieves and the securing of evidence sufficient to bring the guilty parties to justice. When requested to do so these inspectors work in conjunction with the local or State officers. As a usual thing, when a theft of cattle is reported to a local officer and the cattle cannot be found, the association is called upon for a check of its records to ascertain whether the cattle have been shipped to any of the market centers. All information which the association has is given to the officers, and if requested by the owner of stolen cattle such information is given to him, whether the cattle involved belonged to a member of the association or not. In many instances in the past, inspectors of the association have assisted the local officers in theft cases involving cattle which did not belong to members of the association. If, while an inspector of the association is investigating cattle losses reported by a member of the association he uncovers evidence of the theft of cattle from a nonmember, it has always been the policy of the association to give such information and evidence so uncovered to the proper local authorities.

It is impossible to ascertain or even to estimate the value, both tangible and intangible, of the services of these inspectors to the members of the association and to cattlemen in general. Through their efforts many guilty parties have been apprehended and convicted, and it is safe to say that many thefts have been prevented because of the knowledge by the thieves that the inspectors of the association would track them down and bring them to justice.

GENERAL MANAGER AND ATTORNEY

Annually the board of directors selects a general manager. It is the duty of the general manager to carry out the wishes of the board of directors and the executive committee. He also has complete charge of the employees and all matters relating to the business of the association.

Until 1893 it had been the custom of the association to retain local legal counsel for each cattle theft case in which the association was assisting in the prosecution. This did not prove wholly satisfactory, and in 1893 and ever since that date the association has employed an attorney the year around to assist in these prosecutions and to serve the common interests of the membership of the association in many other matters. There are few, if any, county seats in Texas and bordering range States which the association's attorneys have not visited in these 48 years, assisting in the prosecution of parties indicted for cattle theft from members of the association.

OTHER ACTIVITIES OF THE ASSOCIATION

The association is interested in all matters that affect the livestock industry, and this is especially true with respect to the industry in the Southwest. Since 1904 it has employed a traffic counsel. Many times in the past it has advocated before Congress and before the State legislatures the enactment of many laws for the benefit of the industry. It expects to do so in the future.

CONCLUSION

The above only briefly outlines the history and activities of the association. It would take a book to fully chronicle its history and activities through the years. For the present it is sufficient to say that it is the oldest and largest livestock association in Texas, and is the only association in Texas that main-

tains inspectors in the market centers to which cattle from Texas and the Southwest move.

The foregoing statement is made by me as secretary of the Texas & Southwestern Cattlemen's Association, which position also automatically carries with it the designation of general manager, and this statement is submitted by me as supplementing my oral testimony.

Respectfully submitted.

HENRY BELL.

Mr. KLEBERG. I think at this juncture, Mr. Chairman, it might be wise to call on the representatives of the Department of Agriculture who are here this morning, and I will ask Mr. Harry Reed to come up. Mr. Reed is in charge, as Assistant Chief, of the Marketing Division.

STATEMENT OF H. E. REED, ASSISTANT CHIEF, AGRICULTURAL MARKETING SERVICE, DEPARTMENT OF AGRICULTURE

Senator THOMAS. State your name for the record, please?

Mr. REED. H. E. Reed.

Senator THOMAS. What is your official position?

Mr. REED. Assistant Chief, Agricultural Marketing Service.

Senator THOMAS. How long have you been engaged in this particular line of work?

Mr. REED. About 3 years.

Senator THOMAS. What is the nature of your duties?

Mr. REED. The Agricultural Marketing Service is the regulatory and service bureau of the Department of Agriculture. We have the administration of some 20 laws, regulatory and service laws.

Senator THOMAS. All right, you may proceed and give your viewpoint and whether or not you express the viewpoint of the Department relative to the merits of H. R. 5204, the cattle inspection bill.

Mr. REED. The Department has already submitted a report to this committee at the request of the chairman, and I have nothing to add to what the Department has already said. I would be glad to answer any questions that I can, or to review briefly the—

Senator THOMAS (interposing). I think there has been no report submitted to the Senate committee. Mr. Kleberg says that a report was submitted to the House committee.

Mr. MONTAGUE. I have a copy of the report made to the Senate committee by the Department of Agriculture. Senator Connally then wrote a letter to the Department and they submitted a supplemental report to Senator Connally. I hand you copies of all of these documents.

Senator THOMAS. They hadn't come to my attention heretofore.

Senator BUNKER. Could we have the gist of the Department's report as to whether they are for or against it, without reading it?

Senator THOMAS. Well, I think perhaps I had better read it so as to see just what it says. This report is dated July 31, 1941, and is addressed to Hon. E. D. Smith, chairman, Senate Committee on Agriculture and Forestry, United States Senate, and reads as follows:

DEAR SENATOR SMITH: This is to acknowledge receipt of your request, dated July 11, for a report on H. R. 5204, a bill to amend title III of the Packers and Stockyards Act, which passed the House on July 7, 1941.

The bill would confer on the Secretary authority to authorize, at stockyards subject to the act, the collection of a fee by a department or agency of a State or duly organized livestock association for the inspection of brands appearing on livestock originating in States (where brands are used to identify animals for ownership.) The bill sets forth certain requirements regarding registration and the filing of tariffs by authorized agencies, provides a method for determining which agency will be authorized when more than one in a State requests authorization, and provides for the suspension or revocation of authorizations and registrations.

In substance, the bill would enact into permanent legislation and extend the authority heretofore given to the Secretary of Agriculture in a rider to the agricultural appropriation bill. The rider was first enacted in the fiscal year 1930 at the instance of livestock producers and their organizations operating in States where brands are an important means of identifying the ownership of livestock on the range or in other open-grazing areas.

Since the rider was originally enacted a number of duly organized livestock associations located in the States of Nebraska, Wyoming, North and South Dakota, Montana, Idaho, and Texas have been authorized to collect fees for inspecting brands appearing on livestock originating from those States and shipped to markets subject to the act. A number of these associations have been engaged in this activity for several years with apparently satisfactory results both to the livestock producers and to the agencies representing them at a number of the important public markets.

The committee no doubt is familiar with the importance of branding and marking cattle and other livestock in States where the animals are produced on the range and in opening-grazing territories. For years it has been the custom, which in many States has become fixed by law, for livestock producers to brand their cattle in such a manner as to enable the owner to identify his property wherever it might be found. Many of the States in which this custom prevails have made provision for recording these brands in the names of the various owners in much the same manner as deeds to fixed property are recorded. Thus, when any stray animal is found, its ownership can readily be ascertained by reference to the records of the State. In this way much loss has been avoided by livestock producers, either through the operations of cattle thieves or through animals straying over the country where grazing areas are not fenced or otherwise protected against the free movement of livestock from one point to another.

The inspection of these branded animals at market centers has proved of considerable importance to producers. It is claimed that the inspection has tended to reduce materially the stealing of cattle and other livestock because of the ease with which the guilty parties can be detected when they attempt to dispose of stolen animals through any of the markets where inspection is being conducted.

One of the difficulties in the administration of the provisions in the rider to the annual agricultural appropriation act has been the lack of definite standards in determining which of several associations in one State should be authorized to perform the service and collect a fee. There has also been a serious question whether market agencies, representing owners of branded cattle, could be required to deduct the fees from the proceeds of sale and turn them over to the authorized agency. Another deficiency in the rider is that it does not give the Secretary authority to suspend or revoke an authorization once it is issued. Finally, the rider does not clearly limit the authority to collect fees to the inspection of brands on livestock originating from States where the use of brands or other marks to identify ownership prevails by custom or law.

The language of the present bill, H. R. 5204, clarifies these matters. In the opinion of the Department this is desirable provided that the Congress feels that the situation warrants the enactment of permanent legislation. The Department believes that if the proposed legislation is enacted its administration will be facilitated and made more certain than it has been under the language contained in the rider.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely,

PAUL H. APPELEY.
Under Secretary.

Senator THOMAS. We are advised by the attorney for the Texas and Southwestern Cattleraisers Association that Senator Connally wrote

to the Secretary of Agriculture asking for clarification of one point in the bill. We have before us a copy of Senator Connally's letter and likewise a copy of the reply submitted by the Assistant Secretary; and without objection we will add to the record at this point the Connally letter, together with the reply, as a means of clarification of some of the provisions that are thought to be somewhat obscure.

Does that complete your statement?

Mr. REED. Yes, sir. I have nothing unless you have some questions.

Senator THOMAS. We understand, then, that the Department is favorable to the legislation?

Mr. REED. Yes, sir.

(The letters referred to by Senator Thomas are as follows:)

WASHINGTON, D. C., August 7, 1941.

HON. CLAUDE WICKARD,
Secretary of Agriculture,
Washington, D. C.

DEAR MR. SECRETARY: This is addressed to you relative to a particular part of H. R. 5204 upon which your Department made a report under date of July 31, 1941.

My attention has been called to the fact that the Coastal Cattleraisers Association objects to that feature of the above-referred-to bill which prohibits the issuance of authorization to make the charge for inspection services to more than one agency or organization. The bill provides for only one authorization to be issued with reference to the cattle originating in any one State and sets up certain standards for the guidance of the Secretary in making his selection of such agency in the event more than one organization is applying for such authorization.

I would appreciate having, in detail, your views upon this particular feature of the proposed law, and request that you let me have your reply at the earliest possible date, as the matter may come on the floor at any time.

Sincerely,

TOM CONNALLY.

DEPARTMENT OF AGRICULTURE,
Washington, August 8, 1941.

HON. TOM CONNALLY,
United States Senate.

DEAR SENATOR CONNALLY: This is in reply to your letter of August 7 requesting the Department's views relative to limiting authorizations for brand inspection to one agency within a State, as provided in H. R. 5204.

The Department looks with favor on this provision for the reason that it would eliminate the confusion and avoid the duplication of charges to producers and handling of cattle that would exist if two or more agencies were conducting brand inspection on the same cattle. A single authorization would facilitate the administration of the statute, in that supervision would be limited to the activities of the one authorized agency.

The present authority for issuing authorizations for brand inspection—that is, the rider on the annual Agricultural Appropriation Act—does not provide a guide for reaching a determination as to which of several associations within one State should be authorized to perform this service. H. R. 5204 sets up such standards for the guidance of the Secretary, and provides a statutory basis for selecting the agency best qualified to perform service.

Should this legislation be enacted, authorizations for brand inspection would be limited to one within a State, but there appears to be nothing in the bill which would preclude cooperation between the authorized agency and any other agencies which have been conducting brand inspection within the State, or the making of arrangements for carrying on the work under such terms as would be satisfactory to the Department and the agencies themselves.

Sincerely,

PAUL H. APPLEBY,
Under Secretary.

Mr. KLEBERG. I would like at this time to ask Dr. Miller, the head of the Packers and Stockyards Division of the Department of Agriculture, to come up.

Senator THOMAS. For the record, state your name and the official position which you hold.

STATEMENT OF F. W. MILLER, IN CHARGE OF PACKERS AND STOCKYARDS DIVISION, DEPARTMENT OF AGRICULTURE

Mr. MILLER. In charge of Packers and Stockyards Division, which is a part of the Agricultural Marketing Service, of which Mr. Reed is Assistant Chief.

Senator THOMAS. How long have you been in this particular line of work?

Mr. MILLER. In my present position, Senator, since 1938; and prior to that about 12 or 13 years—

Senator THOMAS (interposing). We have before us, as you know, H. R. 5204, a bill, for consideration, and you have been called to give your viewpoint with respect to this proposed legislation. We would like to know whether or not you think this would be beneficial to the livestock growers and to the public general; and if so, just how and why?

Mr. MILLER. Well, there has been read into the record the report of the Department, official report of the Department, in respect to this particular bill, which, of course, expresses the Department's attitude toward it.

In my own opinion, if Congress feels that this legislation which has heretofore been contained in a rider, should be made a permanent part of the Packers and Stockyards Act, I believe this present bill is a great improvement over the authority or the language which has been contained in the rider under which we have been operating since about 1929 or 1930.

The associations which have received authorizations under the language of the rider, and have been conducting this service for some years, are largely located in the West and the Northwestern States. They have been successful in the conduct of this service, as I understand it, from the standpoint of the livestock producers of the West, but largely by reason of the fact that they have been able to work cooperatively with the marketing agencies in respect of collecting the fees, and otherwise carrying out certain parts of the work that are necessary to make it a success.

But this bill, we feel, would make more certain the duty of the marketing agencies in respect of collecting the fees and turning them over to the authorized agencies.

Senator THOMAS. Well, the present policy of just adding a rider to the appropriations bill from year to year makes it obvious that if the Congress should fail in any year to add that rider that this service would have to be suspended, which makes the present program just temporary, running from year to year and depending each year on congressional action; while if this legislation should be enacted, the Department could organize and have some assurance that this program would not only operate during the coming year but for succeeding years. And if it is good legislation, it occurs to me, as a member of

the committee, and we are going to follow this program, there should be permanent legislation. Do you agree with that?

Mr. MILLER. I concur with that, Senator.

Mr. KLEBERG. Might I add that in view of the fact that this rider, which is the present law today, has been adopted from year to year since 1929 up to the present time, that that should be taken as an indication that the Congress has, during those years, to say the least believed that something along this line was good legislation. I think that ought to be called to the committee's attention.

Might I ask Dr. Miller a question, Mr. Chairman?

Senator THOMAS. Proceed, Mr. Kleberg.

Mr. KLEBERG. There have been some associations which have taken advantage of the operation of the present law under the rider, have there not?

Mr. MILLER. Yes; that is right, Mr. Kleberg.

Mr. KLEBERG. Now are there any associations in Texas that are now operating under the rider, or that have made application, or that have received authorization?

Mr. MILLER. The Texas & Southwestern Cattleraisers Association has received an authorization and has registered as a market agency at a number of stockyards, subject to the jurisdiction of the act, and has filed a tariff of its charges. I do not believe that the association has actually started the inspection operations at these particular markets under that registration. The Coastal Cattlemen's Association has requested and received an authorization to inspect brands. It has not yet registered or filed tariffs. Those are the only two authorizations in your State at this time.

Mr. KLEBERG. That is all I wanted to bring out.

Senator THOMAS. How many organizations throughout the entire United States have been authorized to operate under the rider, as the same is carried in the current law?

Mr. MILLER. There have been, up to this date, Senator, 13.

Senator THOMAS. Will you read those into the record, please?

Mr. MILLER. I would be glad to. The Idaho Cattle & Horsegrowers Association; the Idaho Department of Law Enforcement; the Montana State Livestock Commission; the Nebraska Stockgrowers Association; the Nebraska Branding Committee; the Nevada State Cattle Association; the North Dakota Stockmen's Association; the Oregon State Department of Agriculture; the South Dakota Stockgrowers Association; the Coastal Cattle Association, Inc., of Beaumont, Tex.; the Texas & Southwestern Cattleraisers Association, Inc.; the Washington State Department of Agriculture; and the Wyoming Stockgrowers Association.

Senator THOMAS. Has the Department applications from other organizations for performing this same sort of service?

Mr. MILLER. Have we now received others?

Senator THOMAS. Yes.

Mr. MILLER. We have received an inquiry from an organization in Texas, Senator, called, I believe, the Texas Protective Association, or Organization, but they have not made a formal application for authorization, simply an inquiry as to the provisions of the existing rider.

Senator THOMAS. Are there further questions? If not, we thank you for your statement.

Mr. MILLER. Thank you, Senator.

Senator THOMAS. Does that complete the testimony from the proponents?

Mr. KLEBERG. No, Senator; we have the attorney from Fort Worth, Tex., for the Texas & Southwestern Cattleraisers Association, Mr. Montague.

STATEMENT OF JOE G. MONTAGUE, ATTORNEY, TEXAS AND SOUTHWESTERN CATTLE-RAISERS ASSOCIATION

Mr. MONTAGUE. I would like first to submit a prepared statement which goes into the history of this legislation.

Mr. KLEBERG. Might I ask at this time that that statement be made a part of the record?

Senator THOMAS. Yes: it will be incorporated in the record at the close of Mr. Montague's oral remarks.

Mr. MONTAGUE. Before the opening of this hearing, the Senator asked me to dig up and present to the committee the law that we have under discussion, that is, the old rider statute. I found, in the file here, the acts of 1935, of the Seventy-fourth Congress, and it has been identical since 1929, and was carried in this year's appropriation bill, which I do not have right here but I have copied it into this brief that I am filing.

Senator THOMAS. The law, then, is cited in full in the brief you have just filed with the committee?

Mr. MONTAGUE. Yes, sir.

Senator THOMAS. Then that will serve our purpose.

Mr. MONTAGUE. Now with reference to this thing I want to tell the committee that there is a difference of opinion among the lawyers as to whether or not that present rider statute is permanent legislation or temporary.

The Solicitor's Department, over at the Department of Agriculture, and I should say one of the solicitors over there, expressed the idea to me that it was temporary. That was last April. The legislative counsel in the House expressed the idea that it was temporary. I consulted a number of other lawyers who all figured it was temporary. The legislative counsel here in the Senate thought it was permanent because it was included in the United States Code as published today. I have done considerable research work on that, work over here at the Congressional Library, and in connection with that I went to Mr. McClenan, Mr. W. H. McClenan, who is the official in the Congressional Library who prepares the index and actually prepares the code for publication. As soon as I mentioned the matter to him he said, "Oh, I remember that section of the code"; he said, "I have some private notes on that." And he went to his notes and in them he has, "This is in all probability temporary and not permanent legislation."

So I did some other research on the matter, and while there has never been a decision by any court that I have been able to find, definitely determinative of that fact, yet I did find one legal writer who expressed it like this, that the fact that it is in the code does not

mean that it is permanent legislation because the printer doesn't make the law, it is Congress that does that.

So the fact that it is in the code didn't relieve my mind.

Now I just want to take a few moments to give you a little history of the origin of this work.

Our association, as has been told to the committee, maintains inspectors already at quite a number of stockyards, practically all the yards west and south of Chicago.

We discovered that we were spending more money in the inspection of cattle that did not belong to members of the association, and in the work on our files and in having our inspectors testify in these cases, than we were in cases involving association cattle; that possibly two-thirds of the amount of money we spent did not involve association matters. So we were faced with a rather serious dilemma—either we had to stop rendering service outside of our association, or we had to have additional revenue to what we were receiving.

So the directors instructed me to make some report to them on that situation. So, on November 16, I reported to a directors' meeting and cited them this rider statute under which quite a number of associations were already working. They took no action on that, but told me to make a further study of the matter. I reported again in January, but it was not until March that they instructed me to come up here to Washington and qualify our association under that rider, and go ahead with the work.

So I came up here. On the 28th of April I received from the Department of Agriculture an authorization for our organization to make this charge with reference to cattle originating in Texas, and on that point I want to make this clear—that where it says that one organization only can collect this inspection fee with reference to cattle originating in one State, that means that this inspector may be stationed in Chicago, but he would inspect shipments of cattle coming from Texas. Under the present law you have men from Wyoming, Montana, Nevada, Idaho, and every other place who are inspecting those cattle coming from their respective States now. Now we wanted the same thing with respect to cattle coming from the State of Texas. ✓

They issued the authorization to us on the 28th day of April. At that time I discussed with the Department—our organization is the oldest and largest cattle organization in existence. For us to put on these additional men to keep the records required, meant an expenditure of at least \$45,000 additional to what we were now spending, and it meant hiring a bunch of men and a bunch of girls to keep the records. We now have a tremendous file of records of all the cattle shipments at the yards we inspect, for years and years. So it meant a lot of money for us to undertake and obligate ourselves to spend.

So I thought that there should be some regulations issued by the Department of Agriculture with reference to the administration of this bill. I therefore requested these regulations from the Department of Agriculture. They at first thought they might be issued and then advised me that, due to the uncertainty and instability of the law, they didn't want to do it because of its rider status, subject to a point of order being raised in the House at any session of Congress when it could be stricken out. Well, I didn't want to have our organization

undertake this additional budget. For that reason I began working on this statute and was authorized, and am today authorized, to speak for the Oklahoma Livestock Growers' Association. I have a letter here that it might be well for me to file in connection with my statement here, authorizing me to speak for them in support of the bill.

I prepared a rough draft of the bill and brought it up here, and after working it over here with some of the representatives of the Department of Agriculture, and the Solicitor's Office, and various legislative counsel, the bill was introduced and passed the House. It came over here to the Senate and after it reached the Senate, and after the committee had acted on it, Mr. McFadden filed his opposition to the bill here. That was the first I knew of his opposition.

Now I take this position with reference to the opposition, or anything else with reference to it, that you don't care anything about that, you are not interested in that; all you care about is whether this does the producers of cattle, the marketers of cattle, any good. If it does, then it is a good law, and if it doesn't, then it wouldn't be a good law.

Now in connection with this, the National Livestock Association, which is an organization composed of many, many producers of cattle on a national basis, has a committee that is called the National Brand and Theft Committee. That committee met in Colorado Springs and there were representatives there from practically every range State in the country. They read this bill and endorsed it and Mr. Russell Thorp, who is the secretary and manager of the Wyoming organization, sent me this telegram which is a quote of a telegram he sent to Senator O'Mahoney, and I would like to file that telegram.

Senator THOMAS. Without objection it may be made a part of the record at this point.

(The telegram is as follows:)

CHEYENNE, WYO., July 21, 1941.

JOE G. MONTAGUE,
Mayflower Hotel, Washington, D. C.:

Retel. wired O'Mahoney July 19 from Colorado Springs "National Brand and Theft Committee and Wyoming Stock Growers Association approves Kleberg bill, H. R. 5304 and appreciate your keeping us advised regard to this bill."

RUSSELL THORP.

Mr. MONTAGUE. Then here is the letter authorizing me to speak for the Oklahoma Association, which I would like to file as part of the record.

Senator THOMAS. Without objection, it will be made a part of the record.

(The letter referred to is as follows:)

OKLAHOMA LIVESTOCK GROWER'S ASSOCIATION,
Oklahoma City, Okla., August 18, 1941.

Judge JOE MONTAGUE,
Mayflower Hotel, Washington, D. C.

DEAR JUDGE: Saturday morning when I reached the office, your air mail letter was waiting for me.

I regret very much that it will be impossible for me to return to Washington for this hearing on August 21, and respectfully ask that you speak for the Oklahoma Livestock Growers Association. I am notifying Senator Elmer Thomas that you will speak for us.

Mr. Joe Jarboe, president of our association, also regrets he will be unable to attend, and joins me in this request. Doc Mundy is in Kansas City, since he is in the midst of shipping I am rather confident he will be unable to attend.

If you feel that any of our Congressmen will be of any assistance, you might get in touch with Wesley Disney, who no doubt would make the best appearance of any of our congressional delegation.

Please let me know as soon as possible just what success you have.

Sincerely yours,

BEN ELLIS

Mr. MONTAGUE. Now, in this statement that I have filed I have made what I believe to be an analysis of the present law and of the proposed statute. I have tried to demonstrate in there the reasonableness of the statute.

I will be glad to answer any questions that you may care to ask me about it, but I don't want to take up any more of your time.

Senator THOMAS. If there are no questions, we thank you for your statement.

Senator BUNKER. A difference of opinion among attorneys is no new thing.

Mr. MONTAGUE. That is right; the lawbooks are full of those, Senator.

(The brief submitted by Mr. Montague is as follows:)

ARGUMENT IN SUPPORT OF H. R. 5204, FILED BY JOE G. MONTAGUE, ATTORNEY FOR
TEXAS AND SOUTHWESTERN CATTLE-RAISERS ASSOCIATION

(In addition to the oral evidence presented to this subcommittee the following written argument is filed in support of the bill under consideration; viz. H. R. 5204, by Joe G. Montague, attorney for the Texas and Southwestern Cattle-raisers Association.)

The custom of using some character of artificially imposed brands and marks on domestic animals as an aid to identification of such animals and as proof of ownership and title has existed as long as such animals have been recognized as the subject matter of property rights. This custom was brought to the Western Hemisphere by the Spanish explorers at the same time that they introduced into this new land the horse and the cow. This probably explains why it is that the custom of branding and marking privately owned animals as an evidence of ownership prevails in the western and southwestern range States and is rarely used in those parts of the country that were never subjected to the Spanish influence. In all of the Western States the custom so long prevalent in the business of cattle production has received statutory sanction and the presence of a duly registered brand on an animal is, in those States, recognized as prima facie evidence of the ownership of the animal by the registrant of the brand, and the legal title to such animal carrying his brand is established by the brand.

It would be an idle thing if individuals who produce cattle and who brand and mark their animals to evidence their ownership had no means of inspecting and detecting their animals carrying such brands and marks in order to assert their ownership. The business of raising and marketing cattle has, like all other businesses, developed complexities to such an extent that the individual producer must, in order to prosper, cooperate with, and must receive the cooperation of, fellow producers. The development of the system of public markets, supervised by the Department of Agriculture, has been one of these problems demanding unified attention from the producers.

From the very beginning of history livestock have always been the subject matter of theft probably more than any other character of property. Theft of cattle led to many of the early wars, especially to the border wars between the English and the Scots. This problem of theft seems to be a necessary incident to the industry and, while much that has been written about the problem may be termed romantic fiction, yet it is sadly true that theft of cattle has always been, is now, and probably always will be a real, live, and very practical ques-

tion meriting the constant attention of every person engaged in the business of producing cattle. It is my opinion, based on an entire lifetime spent in the cattle country, that, due to modern truck transportation and other modern developments, there is more theft of cattle at this time than there has ever been in the history of the industry.

Because of the ever-present question of prevention of cattle theft and because of the development of those complexities in the industry incident to the growing and marketing of cattle, cattlemen have, of a necessity, organized various associations, which associations have two principal purposes:

First. The prevention and detection of cattle theft.

Second. The meeting and solving of other problems arising in the industry from time to time.

The prevention and detection of theft being a police function, it is primarily a governmental function, and since public stockyards are agencies under governmental supervision, it is clear that such function, insofar as crimes committed in connection with marketing of cattle through such posted yards, is properly a governmental function. But for many reasons, the principal of which is the fact that work of this nature must be pursued out into the ranges, no governmental agency has ever adequately coped with this problem, and it is the belief of stockmen that no such agency could ever do so. The failure of the McCarran bill to become a law evidences the correctness of this statement. The problem has been met by the various State associations keeping inspectors on the various yards to which the cattle from their respective States naturally gravitate in due course of trade, and, in addition to inspecting the cattle that pass through these markets, they maintain inspectors out on the ranges to follow up the work of the yard inspectors and to perform the duties that are peculiar to range inspection work.

The maintenance of such inspectors is naturally an expensive undertaking. For many years the members of the respective associations have met this expense by voluntary assessments levied on themselves by themselves, but in 1929, at the request of various organizations operating principally in the north-western part of the cattle country, the late Senator Kendrick was successful in having a rider attached to the annual appropriation bill for the Department of Agriculture, which rider read as follows: "*Provided*, The Secretary of Agriculture may, whenever necessary, authorize the charging and collection from owners of a reasonable fee for the inspection of brands appearing upon livestock subject to the provisions of this chapter for the purpose of determining the ownership of such livestock: *Provided*, That such fee shall not be imposed except upon written application made to the Secretary of Agriculture by the Board of Livestock Commissioners, or duly organized livestock association of the States from which such livestock have originated or been shipped to market."

The above-quoted rider has been reenacted annually since 1929, still keeping its status as a rider on the annual appropriation bill for the Department of Agriculture. Many State organizations or associations have availed themselves of the privileges afforded by this rider statute, but the organization I represent had not done so until this year.

II

The Texas and Southwestern Cattleraisers Association has been an active association since 1877. It is, I believe, the oldest organization of its kind in the United States, and, without intending to appear to be boastful, it is by far the largest such organization. This association has, for many years, in fact since stockyards have existed, maintained inspectors at numerous stockyards and has constantly kept up a diligent system of inspection at these yards for the particular benefit of its membership, but also for the benefit of the industry as a whole. Of course, in addition to the stockyards inspectors, the association has constantly kept a large corps of range inspectors at work in the field. In all of the yards at which we keep inspectors every head of cattle passing through such yard is inspected by our men and a record of such inspection is kept. These records are regularly assembled at our headquarters in Fort Worth, Tex., the filing of such reports necessarily entailing a large office force. Our organization has never availed itself of the privileges conferred by the Kendrick amendment above quoted.

During the past years peace officers throughout the range country where we operate have learned that our records are the most complete of their kind in existence. This has led to the universal practice on the part of these officers

to, whenever they are investigating a case of cattle theft, almost automatically, call on our organization for assistance and ask to have any information in our records made available to them. In the event the animals under investigation belonged to a member of our organization we had, in all probability, already been at work on the problem, but if the animals did not belong to a member, we make all of our information available to the investigating officer, and assist him all we can. This naturally takes a lot of time of the office force and, if a case of theft develops, our inspectors are taken from their regular work to testify as witnesses. We never refuse the information we have and never fail to cooperate with officers.

The outlined practice has been growing throughout the years to such an extent that we have learned we are spending a great deal more money on matters not involving cattle owned by association members than we are on association matters. All of this is being done without cost to persons who are not members of our organization. This situation led to the directors of our organization calling on me, as their attorney, to make a report on some solution to the dilemma. We either had to limit our service to members of the association or we had to have additional revenue to support the service we had been and are giving.

At College Station, Tex., on November 16, 1940, I reported to our directors at a regular meeting and discussed with them section 231, of title 7, Packers and Stockyards Act, that being the Kendrick rider. Congressman Kleberg was present during this discussion. In January 1941, at another directors' meeting in Fort Worth, Tex., the matter was again discussed. At the annual convention of the association held in San Antonio, Tex., in March 1941, the matter was further discussed with the result that I was instructed soon thereafter to come to Washington and procure an authorization for our organization under the Kendrick rider amendment. I did this and on April 28, 1941, the authorization was issued. While here I discussed with representatives of the Department of Agriculture the necessity for the issuance of certain administrative regulations in connection with operations under the Kendrick rider. I was advised that the Department recognized the necessity for these regulations and that they would study the situation and probably issue the regulations. I returned to Texas and reported to my directors. I then met with a large group of the officers and directors and members of the Oklahoma Livestock Growers Association at Oklahoma City, and discussed our plan to operate insofar as Texas cattle were concerned. These men first wanted Oklahoma cattle included within our inspection, but later advised us that they preferred to do this inspection work themselves.

The Department of Agriculture then advised me that, in view of the fact that the Kendrick rider had never been made a part of the permanent legislation affecting stockyards and that the statute had to be reenacted each year as a rider, they felt their legal foundation too insecure to warrant the issuance or enforcement of the regulations that had been discussed with me in April and which are necessary before a practical compliance with the rider could be effected. This position was reiterated to me in Austin, Tex., by a representative of the Department of Agriculture familiar with the entire matter a few days later. In the last referred to conference the necessity for permanent legislation was discussed and concurred in by all present. This matter was then fully discussed before a joint meeting of our directors and the Oklahoma directors at Wichita Falls, a meeting at which several hundred persons were present.

I then prepared a draft of a bill, which draft was practically the same as H. R. 5204, and again met with the representative of the Oklahoma cattlemen at Pawhuska, Okla., and fully discussed this matter with them, and, receiving their approval, I came to Washington. I submitted my draft to the representatives of the Department of Agriculture; they made several pertinent suggestions, saying that the bill would not be considered a department bill, but that they approved it. Our organization had, in the meantime, filed its tariff and had registered as a market agency and the tariff had been approved by the Department. Following the above referred to conference with the Department representatives, I redrafted the bill, working with the legislative counsel, incorporating the suggestions made by the departmental representatives, and resubmitted the bill, receiving approval from these representatives of the Department.

Congressman Richard M. Kleberg then introduced the bill as H. R. 5204. At the author's suggestion his secretary and I took the bill around to the members of the House Committee on Agriculture, polling this committee, and it was favorably reported and was then passed by the House. Upon reaching the Senate,

action on the bill was delayed until several interested western Senators had heard from their State organizations on the bill. The National Committee on Brands and Theft met in Colorado Springs, Colo., and discussed this bill. Mr. Russell Thorp, chairman of this national committee, and Secretary of the Wyoming State organization, advised everyone concerned that his national committee composed of representatives of all cattle States and the Wyoming State organization approved of this bill. Upon receipt of this advice the Senate committee reported the bill favorably. Thereafter, the Coastal Cattleraisers Association of Texas registered opposition and the bill was re-referred to this committee for consideration.

III

Even a casual reading of the Kendrick rider above quoted will make it apparent that, aside from its insecure foundation as an annual rider, it is most inadequate and incomplete. It contains no procedural outline, nor does it fix any standards for the guidance of the Secretary of Agriculture in the administration of the act. It leaves the entire administration of this law to variable administrative interpretations, and nothing under this insecure law can be considered as fixed or permanent. This was illustrated conclusively by the reluctance of the Department to issue necessary regulations under the provisions of the rider law, since the Department considered the law incomplete and insecure. The existence of the necessity for permanent legislation could not be made clearer.

IV

While H. R. 5204 is an effort to reenact the substance of the original Kendrick rider, it also contains provisions that would make the permanent law workable and effective. I refer you particularly to the two reports of the Department of Agriculture, one dated July 31, 1941, addressed to the chairman of the Senate Committee on Agriculture and the other dated August 8, 1941, and addressed to Senator Connally. The following is an analysis of the bill:

A. Before an authorization to collect an inspection fee can be issued by the Secretary of Agriculture:

1. A necessity for such action must exist.
2. A written application for the authorization must be filed.
3. Only State agencies or duly organized associations may receive an authorization.
4. The statute is limited in its application to inspection of "range" cattle moving through posted public stockyards.
5. The proposed charge must be reasonable.

B. Before the charge can actually be made and collected the following steps must be taken after an authorization has issued:

6. The authorized agency or association must register as a "market" agency subject to the regulation of the Department of Agriculture.
7. This authorized agency must file a tariff.
8. The tariff must be approved by the Secretary of Agriculture.

C. The bill then provides that no more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State.

It is this provision of the bill that has been objected to by those opposing the enactment of this statute. The reasonableness of this particular part of the bill is apparent from:

1. The fact that if one such authorization has already been issued then no necessity exists for another to be issued and, therefore, the Secretary would be without authority to issue the additional authorization.

2. The original report of the Department of Agriculture on this bill dated July 31, 1941, deals specifically with this provision. After opposition was registered to this section of the bill, Senator Connally addressed a letter to the Secretary of Agriculture asking for a further report on this particular phase of the bill. Under date of August 8, 1941, the Department of Agriculture replied to Senator Connally in no uncertain terms endorsing this particular clause of the bill, giving reasons for such action.

3. For the guidance of the Secretary of Agriculture, a yardstick is set up which would assist him in making a selection out of two or more applicants. No one can reasonably criticize any of the items or qualifications listed for consideration. Each such qualification would be helpful to the inspecting agency and

would enable such agency to render better service to the producer, which consideration is the prime purpose of this bill.

4. Someone must have final decision on this question, and it is certainly proper that the Secretary of Agriculture, the official who must administer the act, should have this final power of deciding what agency or association he wants to do this work for his Department.

D. The next provision of the bill is to the effect that the general provisions of the Packers and Stockyards Act shall apply to all matters of enforcement and administration of this bill. No one has or could object to this clause.

E. The bill then outlines the method of collecting the authorized fee. This is essential and absence of some such provision greatly hampered operations under the old Kendrick rider.

F. The final clause in the bill gives expression to the authority of the Secretary to cancel or otherwise regulate the agency or association that has received an authorization. This clause is likewise essential and its absence in the old law was one of the drawbacks to that law.

V

The necessity for the enactment of H. R. 5204 is apparent from the foregoing statement of present conditions and from the analysis of the present law and of the proposed legislation. The purpose of the bill is to meet a real need in the cattle industry.

This bill has been approved by:

1. The Department of Agriculture.
2. The National Committee on Brands and Theft, which committee is composed of representatives of all State associations.
3. Stockyards operations, as evidenced by the letter from Mr. James W. Sartwell, the owner and operator of the Houston, Tex. (Port City), stockyards.
4. The producers of cattle, as evidenced by the attitude of the organization I represent, which organization is essentially one of producers of cattle.

We therefore respectfully submit that the bill under consideration (H. R. 5204) should be reported favorably by this subcommittee and that this bill should be enacted as a part of the permanent Packers and Stockyards Act.

Respectfully submitted.

JOE G. MONTAGUE,

Attorney for Texas and Southwestern Cattle Raisers' Association.

Senator THOMAS. Mr. Kleberg, does that complete your presentation at this time?

Mr. KLEBERG. Yes; except that I would like to say to the committee that the fall movement of cattle, usually one of the heavy movements of livestock generally, is of course going to take place again this year. The time is approaching fast when Texas cattle and cattle from other States will be moving to markets, and I would like to impress on the committee my personal opinion concerning the importance of passing this piece of legislation so as to bring about more perfect, adequate, and coordinated inspection, which this bill provides, and it should be done as speedily as possible if the cattle raisers of the Nation are to receive the utmost benefit from this bill. It shouldn't be held off, it should be acted on, and voted down or up as the case may be.

In my candid opinion the decision with reference to who should inspect livestock in the States is, as is contained in the bill, left up to the Secretary of Agriculture, and I can see no good purpose whatsoever being served by continued disunity among cattle producers with reference to those things which are essential safeguards of their property; and I hope you gentlemen can get this bill up and ready.

That is all I have to say, and I want to thank you very much for your fine attention and your courtesy.

Senator THOMAS. We appreciate the manner in which this matter has been handled before the committee, Mr. Kleberg.

Mr. KLEBERG. Thank you.

Senator THOMAS. Now, if you gentlemen will come up and proceed with your presentation.

STATEMENT OF W. P. H. McFADDEN, JR., PRESIDENT, COASTAL CATTLE ASSOCIATION, BEAUMONT, TEX.

Mr. McFADDEN. My name is W. P. H. McFadden, Jr., Beaumont, a cattle man, and president of the Coastal Cattle Association.

Senator THOMAS. Before you proceed, let me at this point place in the record, without objection, a letter just received by the chairman, Ellison D. Smith, from the Oklahoma National Stock Yards Co., signed by John R. Baker. This letter sets forth two objections to the bill and I think perhaps those two objections should be noted because as far as I can tell, they are the main objections to the bill.

You will observe that this piece of legislation does not propose to make this collection or any other collection at the numerous community sales, auction barns, or sales made upon farms and ranches. It is only when the producer undertakes to use his federally supervised and posted public livestock market that he encounters this charge.

We are unalterably opposed to the imposition of any charges that do not apply equally to all places where sales are made.

Then the second objection seems to be:

We would also like to point out to you that the small producer does not brand his cattle, does not belong to any association, has no interest therein, and will seriously object to the fee proposed, to the extent of finding other market outlets, if Congress authorizes the collection of this charge from him when patronizing the public markets only.

Those seem to be the two main objections that this organization has to the bill, and inasmuch as this letter comes from my own State, I will ask permission to put it in the record in full.

(The letter referred to is as follows:)

OKLAHOMA NATIONAL STOCK YARDS Co.,
Oklahoma City, Okla., August 20, 1941.

Hon ELLISON D. SMITH,
Chairman, Committee on Agriculture and Forestry,
United States Senate, Washington, D. C.

DEAR MR. SMITH: We are writing you protesting the passage of House Resolution 5204, introduced in the House of Representatives by Congressman Kleberg, and, in explanation of our failure to vigorously protest to our Congressman, will say that this particular piece of legislation had passed the House of Representatives before it came to our attention.

However, we did write our Congressmen, and so far as we can determine, whatever support the bill received was without full knowledge of what it would do to the small livestock producers of our State. However, it has not as yet passed the Senate and there is time to prevent the imposition of a piece of legislation of this kind which will not only be harmful to the public posted markets, but will place a substantial burden upon the small producer who markets only a few head of unbranded cattle yearly and does not belong to any association of any kind.

You will observe that this piece of legislation does not propose to make this collection or any other collection at the numerous community sales, auction barns, or sales made upon farms and ranches. It is only when the producer undertakes to use his federally supervised and posted public livestock market that he encounters this charge.

We are unalterably opposed to the imposition of any charges that do not apply equally to all places where sales are made.

We would also like to point out to you that the small producer does not brand his cattle, does not belong to any association, has no interest therein,

and will seriously object to the fee proposed, to the extent of finding other market outlets, if Congress authorizes the collection of this charge from him when patronizing the public markets only.

Furthermore, we would like to point out that brand inspection, for which this sum is to be collected, is not the best means of catching the thief, and that a far better method is a record of the license number of the vehicle bringing the livestock to the public markets. Such records, along with all other detail, is now kept at the public posted markets and, as a result, the stolen livestock is marketed through the auction barns, community sales, etc., where no records of any kind are kept.

If the Congress of the United States wants to do something to prevent stealing of livestock, let it pass some legislation that will require all sales places to keep adequate record as is now kept by the public posted markets.

The contemplated legislation, as set out in House Resolution 5204, does not in any way affect the unregulated competition to the public posted markets (there are over 150 such sales places in Oklahoma alone) but adds only to the existing difficulties.

Yours truly,

OKLAHOMA NATIONAL STOCK YARDS CO.,
JOHN R. BAKER.

Senator THOMAS. Now you may proceed, Mr. McFadden.

Mr. McFADDEN. Well, first I would like to give just what we know about this bill, H. R. 5204. It was my understanding, and I think the Texas & Southwestern said that in April of this year they received a permit from the Secretary of Agriculture to collect fees at posted stockyards in Texas. On June 14 of this year we received the same marketing service, but the Department of Agriculture requested us to get in touch with the Texas & Southwestern, stating that we, too, had the same authorization in Texas, and to have a meeting and get together and see what could be done to work out the inspection of cattle.

Following the Secretary's request, we wrote to the Texas & Southwestern, requesting to get together on some kind of a means of inspecting cattle at the stockyards. I finally received a letter from them July 2, stating that we would have to get together and decide how we were going to do the inspection, and what we were going to do.

So we waited another 2 weeks, and finally we received word from Washington that this bill had been introduced in the House 5 days before the letter was written. It was introduced on June 28, 2 weeks after we had received our authorization. It passed through the House and went to the Senate, and passed through the Senate committee before we were ever notified that there was a bill up here. This bill would eliminate any but one organization, and at that time there were two in Texas. So we felt that was rather unjust.

So we came to Washington and got the bill and read it over and found out what it was about, and we decided that it wasn't the bill that the cattlemen of the State of Texas, or any other State, should want. It is a bill that absolutely makes a monopoly of the cattle inspection in any one State. It discriminates between one organization and another organization in that only one organization can inspect cattle. If that is the case there will never be over one organization in any one State. All small organizations will be put out of business for the simple reason that all organizations are run under the same system nowadays, where you pay your dues, you pay an assessment on the number of cattle you have, and this assessment pays for your inspectors.

At the present time I might state that I am a member of the Texas & Southwestern Association, and my family has been members for

years and years; but if there is only one association given this authorization nobody will join any other association, inasmuch as when you charge an assessment to pay for your inspectors, and these inspectors go on the yards to inspect cattle—and I don't think the Southwestern told you exactly that their inspectors are looking for cattle of their own association members—in other words, they couldn't look for any other cattle inasmuch as they wouldn't have the brands of any other cattle.

If you join that association you record your brand with them. When they inspect cattle on the stockyard they are looking for the brands of their association members.

If they get this marketing service it will mean that any other small organization in the State would lose all of its members for a member would want to know, "Why should I join your organization and pay an assessment for your inspector, and when I kill cattle at the markets I will have to pay the other association, while their members will not have to pay another assessment?"

This bill here is to enable them to stop assessing their individual members to pay for the inspection service. It is going to mean, instead of their individual members paying for their own inspectors, that every producer of livestock in that State, or originating from that State, will help to pay their inspectors.

Now, what we are objecting to in the first part of the bill is where it says:

The Secretary may, upon written application made to him, and if he deems it necessary, authorizing the charging and collection, at any stockyard subject to the provisions of this act—

and so forth.

And further down in the bill it says:

If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of—

five provisions in there that he has to consider—and that means the largest and strongest organization in any State.

Now this does not mean that this is confined to one State. They have told you just now that the Texas & Southwestern is the strongest and biggest organization in the United States. If they are incorporated in any other State in the Union they could ask for that authorization in the States that they are incorporated in, they could ask for it in Kansas, Nebraska, Illinois, or any other State, and if any small organization there asked for the same or similar authorization, the Secretary of Agriculture would be bound to nominate the Texas & Southwestern.

It creates an absolute monopoly in the whole United States for a big organization and it puts out of business every small organization.

In the letter that they introduced from the Department of Agriculture in regard to this bill, and also the letter that was written by Paul Appleby, Under Secretary of the Department of Agriculture, which wasn't read, I would like, if it pleases you, to read the last paragraph of that letter. I have it here and I would like to read it to you.

Senator THOMAS. Proceed.

Mr. McFADDEN (reading):

Should this legislation be enacted, authorizations for brand inspection would be limited to one within a State, but there appears to be nothing in the bill which would preclude cooperation between the authorized agency and any other agencies which have been conducting brand inspection within the State, or the making of arrangements for carrying on the work under such terms as would be satisfactory to the Department and the agencies themselves.

That was in response to a letter written to them by Senator Conally asking why they wanted a single authorization. It was brought out before this committee that this single authorization means one association. Single authorization does not mean one association; it means one authority in any State to do the inspection, and we heartily agree that there should be only one authorization.

Now, from a reading of that paragraph it doesn't mean that only one organization can do the inspection; several organizations could get together and do this inspection service, but a large organization that has already put forward this bill, they are not going to meet anybody else half way, not any small organization.

There is nothing in this bill that requires any authorized agent to report cattle found, that are stray cattle. If they find somebody's animal that goes through the stockyard, there is nothing in the bill that requires him to notify the owner of that animal; there is nothing in there that requires them to maintain complete brand records. And in the matter of brand records I can state for the State of Texas that we do not have in Texas a uniform State brand law whereby one man in the State registers with the State his brand and that is his exclusive brand for the State of Texas. Brands are recorded in the State of Texas in each county, and that holds just merely for that county that it is recorded in. With the 254 counties in the State of Texas, it is very easy for 254 men to own the same brand in the State of Texas.

Now, how would it be possible for an inspector, on the posted stockyards, to pick out of the 254 men the one that that animal belonged to?

We have tried to do everything to work together, but it looks as if this bill is a bill that is merely a little bit better than the rider that we have now. The rider, of course, is practically the same, only it doesn't have the part in it where only one organization functions, and it has to be approved each year on the appropriation.

Senator BUNKER. Brand inspection is the main function of a cattle organization; is that right?

Mr. McFADDEN. That is right.

Senator BUNKER. If you take that away, your association would fold up?

Mr. McFADDEN. Well, I should say that most of the cattle associations are formed to catch cattle thieves and to inspect cattle; but I know in the State of Texas that there are five or six organizations. If this goes through and one association is authorized to collect so as to pay their inspectors, or the inspectors they have been having, any other organization in the State would have to close up because they would then have to pay a double fee; they would have to pay to the organization designated on every one of their animals killed, for inspection service, together with the assessment that their association collects for their inspectors.

Of course our association hasn't been doing cattle inspection on the yards as we are not big enough. Our association is formed of 800 members and possibly a couple of thousand others take our magazine; but most of the members of our association are small cattlemen, cattlemen that cannot join the Texas & Southwestern on account of the fees that they have. We have protected our members and tried to do everything for them, but if this goes through, whereby the Secretary has to designate one organization, and that organization has to be the biggest organization in the State, it is going to mean that our association and every other association in any State will have to go out of business.

If the Texas & Southwestern should incorporate in the different States, New Mexico, Oklahoma, Arizona, Kansas, Missouri, or any other State, and they applied for this inspection service in those States, regardless of whether there was an association in those States, according to this bill the Secretary of Agriculture would be forced to designate them as the authority in that State.

We just feel that it is absolutely a monopoly; they don't compete with any other person regardless of the fees. They decide their fees and take it to the Secretary of Agriculture, and if he concurs with them, that is the fee to be collected. It doesn't make any difference if another smaller organization could do the same inspection at cheaper rates, that wouldn't enter into it.

Then there is another thing that I would like to bring to your attention. This inspection service is authorized, under the Secretary of Agriculture, only for posted stockyards. You cannot catch cattle thieves if you just work posted stockyards.

In other words, in the State of Texas I think we have three or four posted stockyards where we might have a thousand small abattoirs and killing plants, and so forth. This bill does not cover anything but posted stockyards.

It is going to work a hardship on cattlemen and packers, stockyards, commission men, and everybody, inasmuch as if a man has to ship his cattle to market, and he knows he has to pay a fee at the posted stockyards, he can very well send his cattle to an unposted stockyard and sell them without a fee. I should imagine that 90 percent of the stolen cattle do not go through a posted stockyard because today the posted stockyards take the brands of everything going through, while the unposted stockyards do not. It is not going to be a means, as this bill states, of stopping cattle stealing.

Also this bill states that the Secretary shall authorize one association to inspect brands of livestock originating in and shipped from such State. That would mean that all cattle shipped from Texas, going to Illinois, Nebraska, Iowa, or any other State in the Union, if they originated in the State of Texas they would be able to charge, at the destination of those cattle, at the stockyards, a fee for the brand inspection.

If these cattle are sold in Texas to a man in Nebraska or Iowa, when that man markets those cattle he will still have to pay an inspection fee to the Texas organization for inspecting the stock that he has bought. That doesn't seem to be at all fair.

That is all I have to say, I believe. If there are any questions, I would be glad to answer them.

Senator THOMAS. Are there any questions?

Mr. KLEBERG. Senator, I don't want to take up the time of the committee, but I would like, because of the fact that I am a Representative from the State of Texas, at the conclusion of the statement of these two gentlemen, to make a little additional statement by reason of some of the objections that have been made.

Senator THOMAS. You will have that opportunity, Mr. Kleberg.

Do you care to make a statement?

Mr. COOPER. Just briefly.

STATEMENT OF RALPH S. COOPER, PUBLISHER OF THE COASTAL CATTLEMAN, OFFICIAL PUBLICATION FOR THE COASTAL CATTLE ASSOCIATION, INC.

Mr. COOPER. The statement was made awhile ago that this bill was given publicity. I happened to be sent up here in June by the association, at which time we were given this same permit to collect fees at posted stockyards from the Department of Agriculture.

We went back, and, as Mr. McFadden has told you, we notified the Texas & Southwestern that we had this permit, and the idea was to get together and possibly split up the territory so there would not be a double collection of fees at any one posted stockyard. It seems that we couldn't get an answer back from these folks. Finally, when we did get one, the next thing we knew the bill had been passed by the House and was over in the Senate Agriculture Committee.

Now Mr. McFadden is a member of the Texas & Southwestern and has been for a good many years. They state that their membership was notified of this, but we knew nothing at all about it, and they knew we had this permit from the Department of Agriculture. The next thing we knew, as I stated, we were notified from Washington that the bill had already passed the House.

It would seem to me that there is going to be an awful lot of objection to this bill when it is known. For instance, last Sunday I picked this from a local paper, "East Texas livestock body opposes proposed limiting of brand inspection right." When this is known by the different organizations throughout the United States, there is going to be a flood of such stuff; that is my prediction.

I concur with Mr. McFadden in everything he has said. I think that is about all I have to say.

Senator THOMAS. Thank you.

Just a moment, Mr. Kleberg, before you make your statement. There have come to me, as a member of this committee, a few telegrams and also some telegrams and letters have been sent to Senator Smith, chairman of the full committee. There is one from California that I want to inquire concerning, of Dr. Miller, if I may. This message was sent from San Francisco by the Secretary of the California Cattleman's Association. The wire is addressed to Senator Smith and is as follows:

We are anxious to have an amendment to H. R. 5204 to the effect that it shall not apply to States where brand inspection is conducted by the State. Cattle brand inspection California is conducted by State department of agriculture. We have asked Senator Downey, also Mr. Miller of Bureau Animal Industry, to confer with your committee and explain amendment desired by California.

Dr. Miller, do you care to comment on this suggested amendment?

Mr. MILLER. Mr. Chairman, Mr. Parker, who is affiliated with the California State Department of Agriculture, perhaps a month ago talked to Mr. Reed and myself about the desire of the California people to have some sort of an amendment to this bill, but we haven't received a copy of the amendment and it wasn't very clearly stated at that time.

In essence, it seemed to be the desire of the California people, as I understand the inspection in California is now conducted by some branch of the State department of agriculture and not by any cattlemen's association, and it seemed to be their desire, as nearly as I could get it at that time, to be exempted in some fashion from the terms of this bill.

Part of that apparently arises out of the fact that when cattle come from other States, let us say a State which has not requested an authorization by some agency of the State or some livestock association, they come into California and they inspect them and they charge a fee, I believe, of 5 cents a head.

There is some objection to that on the part of the producers in some other States who ship cattle to California, on the ground, as I understand it, that they have a local inspection in their State, conducted by some county officer or some deputy sheriff, giving a clearance to the cattle before they are loaded and transported to California.

Now, I am not sufficiently familiar with the exact thing that the California folks would like to have to really enlighten the committee very much on it here, except to say that apparently they desire to be exempted from—that is, the California State department desires to be exempted from—the general provisions of this proposed legislation.

Senator THOMAS. If it is a fact that California has its own State set-up, as authorized by State law, it is rather obvious to me that that State would not desire the Federal Government to authorize any, you might say, private organization to do work that would be duplicating the work done by the State.

If agreeable, I would like to ask you, Dr. Miller, to look into the matter and be able to advise the committee later if anything should be done in the way of amending this bill to protect States of that character.

Mr. MONTAGUE. May I make a statement with reference to California?

Senator THOMAS. Yes.

Mr. MONTAGUE. Mr. Parker, who is the director of agriculture for the State of California, was here in Washington and discussed this bill with me before the Senate committee originally acted on it. He also had been advised that the National Committee on Brands and Theft were meeting in Colorado Springs at that meeting I referred to awhile ago, and he said he would hold up any action until they had met and acted. After they had met and acted and approved the bill as it is, and the morning the Senate committee met here, I notified Mr. Parker, who was staying at the Hamilton Hotel, that the committee was going to meet and invited him to come up here with me, and he told me that in view of the action of the national committee he was not further interested.

I want to point out one other thing. The bill itself takes care of the situation that California has, very, very pointedly. It says this, "that when necessity exists," and so forth. Now, if you have a State

doing an inspection service, then surely the Department of Agriculture would say that no necessity exists and would not issue an authorization.

So I think the bill itself very clearly takes care of that situation.

Senator THOMAS. All right, Congressman Kleberg.

Mr. KLEBERG. With reference first to the letter that you received from your constituents, and the first objection contained therein, that the bill did not provide for the carrying on of the inspection work at yards which are not under the provisions of the Packers and Stockyards Act—sale rings, auction rings, and so forth, the same objection was raised by my good friend, Mr. McFadden, to that provision in the bill.

Of course the Department of Agriculture has no authority over sales rings and auction rings, but there is nothing on earth to preclude, under State authorization, inspection at those yards by associations organized for the purpose of inspection. I call that to your attention.

The Texas & Southwestern Cattle Raisers Association, on information carry on field inspections, inspect livestock going to those yards or at the yards, as the case may be, when they have information that there might be something out of the way.

Now then, I represent a district in Texas that has been a cow country for a long time. I have served the organized cattlemen of Texas wholeheartedly since I became a member of the Texas & Southwestern Cattle Raisers Association, during which time I served them as president. I served Mr. McFadden's father while he was a member of that association, and I appointed him a member of the executive committee when I was president of that association.

Mr. McFadden's objections to this bill overlook one peculiar and salient factor. There isn't anything that this bill would do that takes away from the organization which he now heads—and which I am for—this bill takes not one single thing away from them that they are now doing.

The best evidence of that is that they exist coincidentally with the Texas & Southwestern Cattle Raisers Association; and my statement is for the purpose of harmonizing these interests of cattlemen, because I represent them all.

His organization has existed for some time; the Texas & Southwestern Cattle Raisers Association, of course, for a longer time, a much longer time. The Texas & Southwestern has been carrying on market inspections, which his organization has never undertaken.

So, therefore, certainly, if forsooth, the Texas & Southwestern might be accepted as the authorized agency, it would take nothing away from this association which it now has. The local inspection would still go on; cooperation with the Texas & Southwestern would still go on.

This statement is in the nature of a plea to the cattlemen not only in Texas but in other States, to recognize the fact that what we look for in inspection service is efficiency, competency and performance.

The other objection states:

We would also like to point out to you that the small producer does not brand his cattle—does not belong to any association—has no interest therein—

Et cetera.

Well, of course there is nothing on earth to prevent a small producer from branding his cattle. That is answer No. 1 to the proposal. If the small producer is not interested in preventing his cattle from being stolen, certainly other people, other producers who do brand, are interested in preventing this small producer who does not brand his cattle, from sending his cattle with some branded cattle to a yard, for instance, and disposing of them and taking the proceeds. Do you get the point I am driving at?

Senator THOMAS. Yes.

Mr. KLEBERG. Now then, with reference to his belonging to any association, there is nothing in this bill that would force his membership in an association, and there is nothing in this bill that would disrupt the orderly progress of the work being done by any association that now exists.

There is only one association today in Texas conducting market service inspection, and that association has recovered cattle for nonmembers through the years. So the statement that nonmembers don't profit by the operations, for instance, of the agency that is now inspecting on the yards, is not borne out by the facts.

Of course, it is utterly impossible for the association to service shipments of cattle in which nonowner's cattle are found, but under this bill they would be able to do it.

The point I make, with reference to this legislation and my interest in it, is that under this legislation there will be a harmonizing of the interests of the cowmen generally over the country, over one of the disputed features which has to do with the arguments which have come along from year to year between these organizations within the States.

You know, as a Senator from the State of Oklahoma, and I as a Representative from the State of Texas, that if our constituents engaged in given lines of business were agreed, and were pulling together, we would be more efficient servants, there isn't any doubt whatsoever about it.

So my presentation of this bill was somewhat like taking the proverbial bull by the horns. It has been my province, ever since I have been a Member of Congress, to be called upon to pass on legislation that affects the livestock industry in any and all of the 48 States over in the House of Representatives.

I was raised in the cattle business; I have worked on the yards. From the time a calf is dropped until that calf is marketed and knocked in the head, or slaughtered by a more modern means, I have followed through the entire program down to where he is cut up and served on the table in the form of a beefsteak.

Now, then, as you go through this picture, as it develops, I think you will find that this bill, instead of having been what might be termed a carelessly or haphazardly drawn bill, is a bill that has received the earnest, unselfish thought of those very thoughtfully inclined and interested in the general welfare of the entire industry, not only as it affects the State of Texas but as it affects all States.

I hope that this committee, at times when objections arise to this bill—of which I am the author, and I may with pardonable pride or guilt admit that the subject of uniform inspection is something that

I have been working on up here in Washington for 8 years, it is not a new proposition—and there was no means on this earth of bringing about a simplified, economic, well-coordinated, and effective means of protecting the cattlemen, that I knew of, other than that, of authorizing those organizations that possessed the facilities, the equipment, and the qualifications to do the service with cattle originating in the different States.

I thank you for your attention.

Senator THOMAS. We thank you for your appearance this morning and for the statements made.

Mr. McFADDEN. May I make one more statement to the committee?

Senator THOMAS. Yes.

Mr. McFADDEN. According to this bill the Secretary may authorize an agency, only one agency, for determining the brands and marking of livestock. That doesn't only mean cattle, it means hogs, sheep, goats, mules, and horses. If this one authorization is given, and this one authorized agent decides only to inspect cattle, and later on a sheepman or sheep concern wishes to inspect sheep, they cannot do it. This agency has the exclusive right of inspecting all livestock in any State.

Now, they have told you of their inspection service on the stockyards and the different markets. That is only one branch of it, the cow. Has their organization ever done any inspection of hogs, sheep, goats, horses, mules, or any other livestock? That is what they are asking for, an authorization to inspect and collect a fee for all livestock, not just cattle.

Senator THOMAS. Well, inasmuch as I have asked Dr. Miller to consider one suggested amendment, I will make the same request now to those who are for the bill and those who are against the bill, not saying what is going to be done, because nobody knows what Congress will do with this legislation, but if the bill is to be passed will agree that it should be gotten in the best shape possible. It should not contain any jokers—that doesn't suggest that there are any in it, but sometimes jokers do get in bills. Jokers are provisions that could be interpreted one way or another.

Anyway, if those opposed to the measure desire to submit any amendments, if you will send them to me I will see that they are considered. And if those who are in favor of the bill will submit any amendments that occur to them, I will see that they all are considered by the subcommittee and the main or full committee.

Mr. COOPER. May I ask when you will have to have those suggested amendments?

Senator THOMAS. There will not be a quorum of the Senate present, in my opinion, before the 15th of September, unless some emergency arises.

Mr. COOPER. Is this hearing this morning as far as we can go at the present time?

Senator THOMAS. As far as we can go today. I am leaving tomorrow to be gone for about 2 weeks, but when I come back if there are any further hearings sought, or suggestions submitted that need further consideration, that will be done.

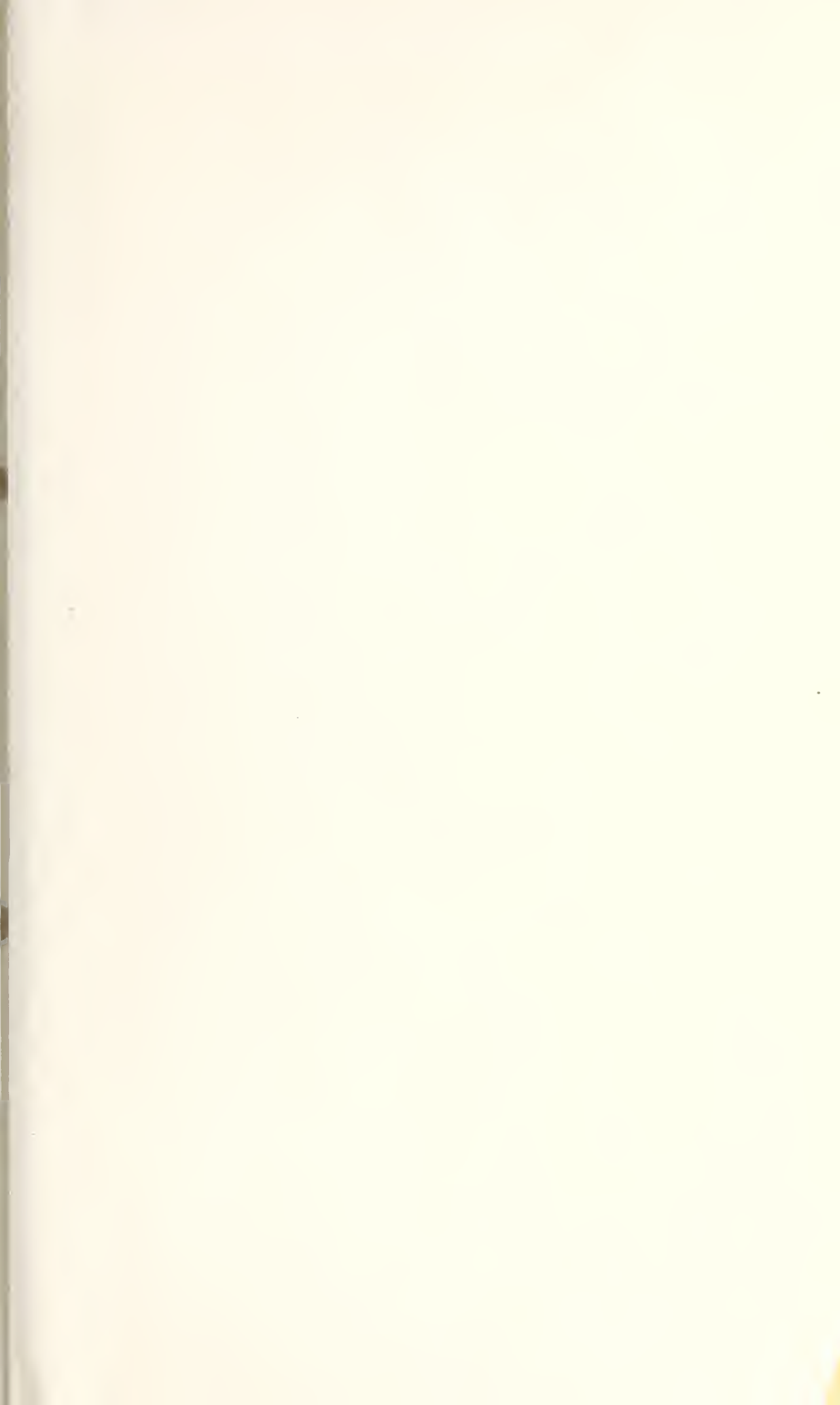
Mr. COOPER. Naturally we are all busy; I have left my work and I would like to know—

Senator THOMAS (interposing). There will be no further hearings now, and there will be none before the Senate gets back in session which, as far as I know, will be about the middle of September, if there are any hearings on the bill at that time.

So, we will stand recessed until about that time, subject to the call of the chairman of the subcommittee.

(Whereupon, at 12 noon, the committee recessed, subject to the call of the Chair.)

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Calendar No. 1469

77TH CONGRESS }
2d Session }

{ REPORT
No. 1425 }

AUTHORIZING THE CHARGING OF FEES FOR BRAND
INSPECTION UNDER THE PACKERS AND STOCKYARDS
ACT, 1921, AS AMENDED

MAY 28 (legislative day, MAY 26), 1942.—Ordered to be printed

Mr. SMITH, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. R. 5204]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 5204) authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended, having considered the same, report thereon favorably with the recommendation that the bill do pass.

An explanation of the bill is incorporated in House Report 901 which is attached hereto and made a part of this report.

[H. Rept. No. 901, 77th Cong., 1st sess.]

The Committee on Agriculture, to whom was referred the bill (H. R. 5204) authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended, having considered the same, report thereon with a recommendation that it do pass, with the following typographical amendments:

Page 1, line 6, strike out the expression "SEC." and insert in lieu thereof "SEC. 317".

Page 1, line 9, strike out the words "or any" and insert in lieu thereof "of any".

STATEMENT

In 1929 section 231 of title 7 of the Packers and Stockyards Act, as carried in the United States Code, was adopted as a rider to the appropriation bill for the Department of Agriculture. Since that time this same section has been readopted each 2 years as a rider to the Department of Agriculture appropriation bill. The purpose of the reported bill is to make the provisions of section 231, together with the regulations that have been adopted by the Department of Agriculture in the interpretation of that provision, a permanent part of the Packers and Stockyards Act, so that organizations doing the work called for under the rider may have a permanent foundation to rest their work on. The service provided for under this act is the same inspection of livestock for the purpose of determining ownership from the brands carried by livestock passing through public stockyards, and thus detecting and preventing theft of livestock.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman:

[Public, No. 51, 67th Cong.]

* * * * *

TITLE III—STOCKYARDS

"SEC. 316. For the purposes of this title, the provisions of all laws relating to the suspending or restraining the enforcement, operation, or execution of, or the setting aside in whole or in part the orders of the Interstate Commerce Commission, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this title, and to any person subject to the provisions of this title.

"SEC. 317. (a) *The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.*

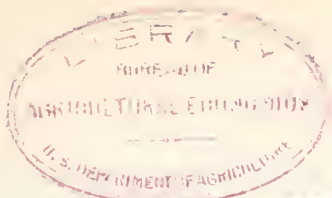
"(b) *The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.*

"(c) *Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.*

"(d) *The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.*"

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Calendar No. 1469

77TH CONGRESS
2D SESSION

H. R. 5204

[Report No. 1425]

IN THE SENATE OF THE UNITED STATES

JULY 10, 1941

Read twice and referred to the Committee on Agriculture and Forestry

JULY 28, 1941

Reported by Mr. SMITH, without amendment

AUGUST 11, 1941

Recommitted to the Committee on Agriculture and Forestry

MAY 28 (legislative day, MAY 26), 1942

Reported by Mr. SMITH, without amendment

AN ACT

Authorizing the charging of fees for brand inspection under the
Packers and Stockyards Act, 1921, as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That title III of the Packers and Stockyards Act, 1921, as
4 amended, is amended by adding at the end thereof the fol-
5 lowing new section:

6 "SEC. 317. (a) The Secretary may, upon written appli-
7 cation made to him, and if he deems it necessary, authorize
8 the charging and collection, at any stockyard subject to the
9 provisions of this Act, by any department or agency of any
10 State in which branding or marking or both branding and

1 marking livestock as a means of establishing ownership pre-
2 vails by custom or statute, or by a duly organized livestock
3 association of any such State, of a reasonable and nondis-
4 criminatory fee for the inspection of brands, marks, and
5 other identifying characteristics of livestock originating in or
6 shipped from such State, for the purpose of determining the
7 ownership of such livestock. No charge shall be made under
8 any such authorization until the authorized department,
9 agency, or association has registered as a market agency.
10 No more than one such authorization shall be issued with
11 respect to such inspection of livestock originating in or
12 shipped from any one State. If more than one such appli-
13 cation is filed with respect to such inspection of livestock
14 originating in or shipped from any one State, the Secretary
15 shall issue such authorization to the applicant deemed by him
16 best qualified to perform the proposed service, on the basis
17 of (1) experience, (2) financial responsibility, (3) extent
18 and efficiency of organization, (4) possession of necessary
19 records, and (5) any other factor relating to the ability of
20 the applicant to perform the proposed service. The Secre-
21 tary may receive and consider the recommendations of the
22 commissioner, secretary, or director of agriculture, or other
23 appropriate officer or agency of a State as to the qualifica-
24 tions of any applicant in such State. The decision of the
25 Secretary as to the applicant best qualified shall be final.

1 “(b) The provisions of this title relating to the filing,
2 publication, approval, modification, and suspension of any
3 rate or charge for any stockyard service shall apply with
4 respect to charges authorized to be made under this section.

5 “(c) Charges authorized to be made under this section
6 shall be collected by the market agency or other person re-
7 ceiving and disbursing the funds received from the sale of
8 livestock with respect to the inspection of which such charge
9 is made, and paid by it to the department, agency, or asso-
10 ciation performing such service.

11 “(d) The Secretary may, if he deems it to be in the
12 public interest, suspend, and after hearing, revoke any
13 authorization and registration issued under the provisions
14 of this section or any similar authorization and registration
15 issued under any other provision of law. The order of the
16 Secretary suspending or revoking any such authorization and
17 registration shall not be subject to review.”

Passed the House of Representatives July 7, 1941.

Attest:

SOUTH TRIMBLE,

Clerk.

77TH CONGRESS
2D Session

H. R. 5204

[Report No. 1425]

AN ACT

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

JULY 10, 1941

Read twice and referred to the Committee on
Agriculture and Forestry

JULY 28, 1941

Reported without amendment

AUGUST 11, 1941

Recommitted to the Committee on Agriculture and
Forestry

MAY 28 (legislative day, MAY 26), 1942

Reported without amendment

June 11

FEES FOR LIVESTOCK BRAND INSPECTION

Mr. CONNALLY. Mr. President, I move that the Senate proceed to the consideration of calendar No. 1469, House bill 5204. I have consulted the majority leader and the minority leader, and there is no objection to the present consideration of the bill. It is a small bill reported unanimously by the Committee on Agriculture and Forestry, and I do not think there will be any objection.

The VICE PRESIDENT. The bill will be stated by title, for the information of the Senate.

The CHIEF CLERK. A bill (H. R. 5204) authorizing the charging of fees for brand inspection under the Packers and Stockyards Act of 1921, as amended.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The VICE PRESIDENT. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill (H. R. 5204) was ordered to a third reading, read the third time, and passed.

EXTENSION OF EMERGENCY LAWS RELATING TO THE MERCHANT MARINE

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the joint resolution (S. J. Res. 130) to extend and amend certain emergency laws relating to the merchant marine, and for other purposes, which was to amend the title so as to read: "Joint resolution to extend certain emergency laws relating to the merchant marine, and for other purposes."

Mr. BAILEY. Mr. President, I move that the Senate concur in the House amendment. The difference is only in the omission of the words "to amend." The title read "To extend and amend," and the House deleted the words "and amend." I do not think the amendment changes the meaning at all.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from North Carolina.

The motion was agreed to.

LIVESTOCK FEED REQUIREMENTS, 1942-43

Mr. REED. Mr. President, the Department of Agriculture appropriation bill is now in conference between the two Houses of Congress. One of the important amendments written in by the Senate related to the use of feed and the possible sale of wheat for feed. Yesterday I asked the Department of Agriculture to prepare a statement showing the present feed situation and what it will be in the immediate future. I ask unanimous consent to have printed in the RECORD at this point the statement prepared for me by the Department of Agriculture, which shows that as of October 1 of last year the carry-over of corn was 646,000,000 bushels. This year it will be 518,000,000 bushels. This year, on the basis of the estimated crop production, we shall produce 2,600,000,000 bush-

els of corn; but in the 12 months beginning October 1, we shall consume 2,975,000,000 bushels, or 375,000,000 bushels in excess of the crop this year. Therefore, on the 1st of October 1943, the excess carry-over of corn will be reduced to 143,000,000 bushels, which is below the margin of safety in such times as these.

The statement shows three tables: Estimated supply and disappearance of corn, 1940-41 to 1942-43; livestock numbers on farms, January 1, 1940-43; and total marketings of livestock for slaughter and milk production, 1940-42. I ask unanimous consent that the table be printed in the RECORD at this point; and I describe it as being prepared by the Department of Agriculture yesterday, and sent to me this morning.

There being no objection, the statement and accompanying tables were ordered to be printed in the RECORD, as follows:

LIVESTOCK FEED REQUIREMENTS IN 1942-43

Livestock production in 1941 amounted to about 36.3 billion pounds (live-weight basis), 4½ percent more than in 1940 and the largest annual total on record. Production in 1942 is expected to exceed the 1941 figure by about 5 percent, and with favorable production conditions, a similar increase is in prospect for 1943. (This refers to production, number of pigs raised, etc.; marketing will lag behind production.) In addition, the record 1941 milk production of 115.5 billion pounds is expected to be stepped up about 3 percent this year and another 2 percent in 1943. Poultry and egg production in 1942 and 1943 also are expected to set new high records.

These large increases in the production of livestock and livestock products are sorely needed to meet the lend-lease and military needs of this year and next. Recent estimates of lend-lease and military requirements for meat over the next 12 or 18 months call for purchases at an annual rate of about 5½ billion pounds, or roughly one-fourth of our total meat output in 1941. In addition, domestic demand for meats is the greatest in many years. The actual food needs of the civilian population are not only increased by the war effort but the amounts which consumers are anxious to buy at prevailing ceiling prices have expanded greatly because of the increase in consumer purchasing power. Any material reduction in supplies of foods available for civilian consumption would likely lead to shortages which in turn would require rationing. Hence the need for maintaining adequate supplies of feed for livestock is apparent.

The feed requirements of the sharply expanded 1942 livestock production are being met without serious trouble by the large 1941 corn crop and the large carry-over of corn last fall. Even so, local shortages in grain supplies may develop before the end of the marketing year, and the corn carry-over next October 1 probably will be about 150,000,000 bushels smaller than it was a year earlier.

Estimates based upon average corn yields and conservative assumptions concerning the corn to be fed and used for non-feed purposes indicate a further reduction of at least 300,000,000 bushels in the carry-over during 1942-43. These assumptions take into account the possibility of a reduction in cattle feeding because of the currently unfavorable relationship between prices of feeders and fat cattle. But they assume little or no feeding of wheat to livestock. The sharp increase in the 1942 spring pig crop, and a possible further increase in this year's fall

pig crop, together with expansion in the production of dairy and poultry products, account for most of the estimated increase in the 1942-43 disappearance over that indicated for the 1941-42 feeding season.

On the basis of these estimates, it appears that the corn carry-over on October 1, 1943, may be reduced below 200,000,000 bushels, which is about the average carry-over for the several years prior to the 1934 drought. If corn supplies are reduced below this amount, skimpy feeding and an advance in corn prices relative to livestock prices would probably occur, both of which would tend to reduce the production of livestock and livestock products.

It should be noted that these estimates assume normal growing conditions for the 1942 corn crop. The weather has not been entirely favorable for planting this spring, and the crop is far from made. A reduction of only 1 or 2 bushels in the average yield of corn per acre could result in a total supply of corn smaller than that which appears to be needed in the 1942-43 feeding season.

Estimated supply and disappearance of corn, 1940-41 to 1942-43

(In millions of bushels)

Disposition	1940-41	1941-42	1942-43 ¹
Carry-over Oct. 1.....	695	646	518
Production.....	2,461	2,672	2,600
Total supply.....	3,156	3,318	3,118
Nonfeed uses.....	247	300	325
Feed.....	2,263	2,500	2,650
Total disappearance.....	2,510	2,800	2,975
Carry-over end of year.....	646	518	143

¹ Assumes no feeding of wheat.

² Based upon an indicated acreage of 91.3 million acres and an average yield of 28.4 bushels per acre.

³ Assumes some further increase in the production of corn alcohol.

Livestock numbers on farms Jan. 1, 1940-43

(In millions)

Species	1940	1941	1942	1943 forecast
Horses and mules.....	14.5	14.1	13.7	13.4
Milk cows.....	24.9	25.5	26.3	27.0
Other cattle and calves.....	43.3	46.0	48.3	50.0
Hogs.....	61.1	54.2	60.5	68.5
Sheep and lambs.....	52.4	54.3	56.0	57.0
Chickens.....	438.3	422.9	473.9	520.0
Grain-consuming animal units.....	138.5	133.5	142.7	153.0

Total marketings of livestock for slaughter and milk production, 1940-42

Items and unit	1940	1941	1942 forecast
Cattle.....million head..	15.0	16.5	17.9
Calves.....do.....	9.1	9.3	9.7
Sheep and lambs.....do.....	21.6	22.3	23.6
Hogs.....do.....	77.6	71.4	83.0
Chickens.....do.....	351.0	384.0	422.0
Total milk production billion pounds.....	109.5	115.5	119.0

¹ Excludes commercial broilers.

CONSTRUCTION OF ADDITIONAL NAVAL AIRCRAFT

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2496) to authorize the construction or acquisition of additional naval aircraft, and for other

purposes, which were on line 4, to strike out "nonrigid"; on line 6, to strike out "nonrigid"; and on line 7, to strike out "seventy-two" and insert "two-hundred."

Mr. WALSH. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

CONSTRUCTION OF NAVAL AUXILIARY VESSELS—BILL RECOMMITTED

Mr. WALSH. Mr. President, in view of the passage of the bill making additional appropriations for the Navy, I move that calendar No. 1494, House bill 7159, authorizing the construction of certain auxiliary vessels for the United States Navy, and for other purposes, be recommitted to the Committee on Naval Affairs for further study.

The motion was agreed to.

NEWSPAPER CRITICISM OF CONGRESS AND THE ADMINISTRATION

Mr. GUFFEY. Mr. President, during the past 10 years the Congress has debated and decided some of the most momentous constitutional questions ever to come before the American people.

Whether it has decided wisely or not, and I think that in most instances it has decided wisely, there can be no doubt that its legislative programs have been formulated and executed in the midst of the greatest critical uproar the world has ever known.

We know the story of the bitter personal invective and abuse which were heaped upon George Washington, the desperate attacks upon Jefferson, the scurrilous gossip campaigns against Jackson, and the jibes and mockeries that were Lincoln's lot.

Many here, like myself, carry burning personal recollections of the propaganda campaign which martyred Woodrow Wilson while he fought for a peace formula which would have avoided the catastrophe now upon us.

Yet all the criticisms of these great men in our history, bitter as they were, could not compare with the avalanche of abuse which has descended upon the administration and the majority in Congress during the past 10 turbulent years.

This is so because never before in history have the propagandists of militant minorities had available such weapons and techniques as modern invention has placed at their disposal.

The public-address system now magnifies the squeak of the pettifogging critic to a reasonable facsimile of the lion's roar. Through the genius of advertising the snapping of executive fingers in the corporation board room reverberates through the Nation with the thunder of Divine revelation.

What is today the daydream of the Roosevelt hater may be spread far and wide tomorrow, by press and radio, as nothing short of revelation, the true word from on high.

Because we have seen this thing happen, because we have watched elections go one way while this supposed "public opinion" went the other, we have not been impressed heretofore by the shrieks and yells from the ivory towers of the

columnists and commentators, nor have we been stampeded by fake telegrams, printed post cards, or form letters. I recall that I received 10,000 telegrams in 2 days, and more than 100,000 letters, demanding that I vote against the holding-company bill. I voted for it, and several years later when I campaigned for reelection, both in the primary and in the general election, not one of the thousands to whom I talked ever mentioned the bill or my vote.

I am sure that every Member of Congress has had similar experiences. Most conscientious Members have found they can do their full duty only by following their own consciences rather than the flying-trapeze policies of their newspaper constituents.

The late Calvin Coolidge used to advise that the best way to keep one's perspective and sense of values in a campaign was not to read the newspapers that were against you.

Certainly, the enmity of the press, while it may be personally unpleasant, is not necessarily cause for apprehension. It seems to have had little effect upon the political fortunes of President Roosevelt. Many of us will recall the sage observation of our late and well-beloved colleague, Senator J. Hamilton Lewis, that he was indifferent to what the newspapers might say about him, so long as they said it on the front page.

I know that my own election in 1934 was assisted considerably by the constant reiteration in newspapers and over the radio of the statement of the then Republican Governor of Pennsylvania, "I can't stand GUFFEY."

Since this attitude of indifference to newspaper criticism has hardened under 10 years of "pressure" from the anti-administration press. It is significant that the Members of Congress at the present time are taking a serious view of current newspaper attacks which would have been considered piddling and inconsequential only a few months ago.

In the early days of the New Deal the Congress was pictured as an aggregation of wild-eyed radicals led by a "starry-eyed dreamer." Later the press discovered that the Members of Congress were not radicals at all, but just "rubber stamps" without minds of their own. Today the scene has shifted again, and they are portrayed as clowns and buffoons, time-servers and demagogues. This has come about because it is no longer safe to make a direct frontal attack upon the Congress; that would be too obviously sabotage of the war effort in which the Congress is now engaged. So the "movement" has gone "underground." The sappers and miners are at work.

Speaker RAYBURN, in an address at the Muhlenberg Historical Celebration in my own State just the other day, described this movement as—

A studied effort to destroy the faith and confidence of the American people in their elected representatives.

A great many people cry out against dictatorships. There has never been a dictatorship built up in any land until the faith and confidence of the people had been destroyed

in the legislative branch, and the legislative branch itself had been destroyed.

It may be that there have been greater Congresses than this. Only history can determine that point with certainty.

Without a doubt, every Congress has had its share of clowns and demagogues. In this connection, some observations in a recent book by a veteran newspaperman—not, however, a columnist—are highly pertinent:

Let it never be forgotten that for 8 years it has been politically, and sometimes financially, profitable to paint the New Deal as black as possible and when blackening is profitable no one need doubt that a good job will be made of it.

Surely it is not mere Democratic propaganda to point out, at this time, those features of the Roosevelt administration which even its opponents admit are not bad, and which shine brilliantly when contrasted with the regime which it now opposes. There have been many things in Washington during the last 8 years in which any American can take pride, no matter what ticket he votes, and which he can justifiably emphasize when it is a matter of his country against any other.

Certainly now is the time to remember them, without regard to our domestic differences.

The first and greatest of them all is, in fact, to be credited only in part to the New Deal. This is the sharp rise in the level of political debate during the last 8 years.

The New Deal, simply because it has challenged many long-established concepts, has forced a reconsideration of the fundamentals of our political system, which has been reflected in all public debates, but especially in those on the floor of the United States Senate.

It is doubtful that the intellectual level of the present Senate is conspicuously higher than that of the Senates of the 20 years prior to the New Deal, but its debates have been markedly above that level.

The answer is that a Senator of mediocre intellectual attainments, when he is talking about something important, talks better than a brilliant man who is talking without anything to say.

For the last 8 years the Senate has had before it a succession of great constitutional questions which could not be discussed at all without some celebration, and which could not be discussed adequately without long and severe mental effort. As a result, the Senate has talked well.

We have had some dreadful exhibitions at Washington within these years, yet it would be no bad gamble to tear a leaf at random out of the CONGRESSIONAL RECORD for any day in the past 8 years, and bet on it containing more evidences of reasoning power than a set speech by any high party official of the Nazi regime.

This appraisal, in "Roosevelt—Dictator or Democrat," is by Mr. Gerald W. Johnson, editor of the Baltimore Sun, who appears to have written from honest conviction and honest research based upon long experience, rather than upon the basis of any predetermined editorial policy.

I might say that I have known many such newspapermen, but they rarely are sent to Washington, or if they are, they are soon recalled.

However, I have never known any columnist for a large newspaper or chain who did not, by some coincidence, faith-

[PUBLIC LAW 615—77TH CONGRESS]

[CHAPTER 421—2D SESSION]

[H. R. 5204]

AN ACT

Authorizing the charging of fees for brand inspection under the Packers and Stockyards Act, 1921, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title III of the Packers and Stockyards Act, 1921, as amended, is amended by adding at the end thereof the following new section :

“SEC. 317. (a) The Secretary may, upon written application made to him, and if he deems it necessary, authorize the charging and collection, at any stockyard subject to the provisions of this Act, by any department or agency of any State in which branding or marking or both branding and marking livestock as a means of establishing ownership prevails by custom or statute, or by a duly organized livestock association of any such State, of a reasonable and nondiscriminatory fee for the inspection of brands, marks, and other identifying characteristics of livestock originating in or shipped from such State, for the purpose of determining the ownership of such livestock. No charge shall be made under any such authorization until the authorized department, agency, or association has registered as a market agency. No more than one such authorization shall be issued with respect to such inspection of livestock originating in or shipped from any one State. If more than one such application is filed with respect to such inspection of livestock originating in or shipped from any one State, the Secretary shall issue such authorization to the applicant deemed by him best qualified to perform the proposed service, on the basis of (1) experience, (2) financial responsibility, (3) extent and efficiency of organization, (4) possession of necessary records, and (5) any other factor relating to the ability of the applicant to perform the proposed service. The Secretary may receive and consider the recommendations of the commissioner, secretary, or director of agriculture, or other appropriate officer or agency of a State as to the qualifications of any applicant in such State. The decision of the Secretary as to the applicant best qualified shall be final.

“(b) The provisions of this title relating to the filing, publication, approval, modification, and suspension of any rate or charge for any stockyard service shall apply with respect to charges authorized to be made under this section.

“(c) Charges authorized to be made under this section shall be collected by the market agency or other person receiving and disbursing the funds received from the sale of livestock with respect to the inspection of which such charge is made, and paid by it to the department, agency, or association performing such service.

“(d) The Secretary may, if he deems it to be in the public interest, suspend, and after hearing, revoke any authorization and registration issued under the provisions of this section or any similar authorization and registration issued under any other provision of law. The order of the Secretary suspending or revoking any such authorization and registration shall not be subject to review.”

Approved, June 19, 1942.

Paid.

